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MONTANA

2004 WORKERS' COMPENSATION

Annual Report

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Montana
Department of Labor and Industry
Commissioner's Office

Governor Brian Schweitzer
Keith Kelly, Commissioner

Dear Colleagues and Fellow Montanans,

Each year the Department of Labor and Industry's Employment Relations Division provides an overview of Montana's wide range of worker's compensation related activities. This year I am pleased to present to you the ***2004 Worker's Compensation Annual Report.***

As you will observe in the report, the last couple of years have resulted in the need for numerous changes and improvements to Montana's Workers' Compensation System-many as the result of legal and legislative actions. During our recently completed 2005 session of the Montana Legislature, significant legislation related to workers' compensation was considered and passed. Several items that resulted in significant changes were in response to court cases or mandates from the 2003 Legislature, such as:

- **Senate Bill 108** restored the conclusive nature of an independent contractor exemption that was previously overturned in *Wild v. Fregein Construction*. The law now requires that independent contractors either have the exemption or purchase workers' compensation insurance coverage on themselves.

- **Senate Bill 481** merged the Occupational Disease Act into the Workers' Compensation Act. The benefit scheme for Occupational Diseases and Injuries will be more uniform. The bill should eliminate some of the constitutional challenges that are now being brought in relation to the different benefit levels available between the two Acts.

- **House Bill 126** revised the Workers Compensation Act by deleting unnecessary or redundant provisions, repealing the occupational deafness provisions, repealing an unconstitutional provision allowing an insurer to reduce benefits due to third party recovery, and changing the term "average weekly wage" to "State's average weekly wage" where appropriate.

  Note: This bill was introduced by the Economic Affairs Committee, which was charged with reviewing the Workers' Compensation statutes by the 2003 Legislature.

The above mentioned are just a few of the examples of the continuing efforts to enhance and improve Montana's working environment. As such, a broad spectrum of participants were pivotal in the process of legislation to demonstrate that, together, we can make a difference and assure a safe and brighter future for all Montanan's.

Sincerely,

Keith Kelly
Commissioner

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Summary

Listed below are highlights from the Montana 2004 Workers' Compensation Annual Report. This report contains information about Montana's workers' compensation system, including injury statistics and characteristics, benefits paid to claimants and payments made by insurers to others in the system, dispute resolution and miscellaneous regulatory programs and functions. Unless otherwise cited, all reported numbers, charts, and tables are derived from the State of Montana workers' compensation database (WCAP).

Claims Statistics.....20-27

There were 32,140 claims reported in Fiscal Year 2004 (FY04) compared with 33,230 reported in FY03. This is a decrease of 3.3% from FY03.

Since FY00, the number of claims reported by the Montana State Fund has increased by 42.2% (from 9,924 to 14,114), while claims reported by private carriers have decreased by 35.9% (from 16,556 to 10,613). Self-Insurers have remained about the same.

The service industry was responsible for 25.8% of all claims reported in FY04. Retail trade had the second largest percentage of claims at 13.4%.

Benefits.....30-41

The total indemnity (wage loss) and medical benefits paid in FY04 were $210,767,361 compared to $200,553,772 in FY03, increasing $10,213,589 or 5.1%.

Medical benefit payments as reported to the Department of Labor and Industry (DLI) increased for self-insurers and State Fund, whereas private carriers saw a decrease in medical benefits paid. Self-Insurers' payments increased by 14.1%, Montana State Fund increased 12.9%, and private carriers decreased 8.4% in FY04.

A new report portraying average and median benefits (indemnity and medical) paid throughout the lives of indemnity claims have been added in the Benefits section. The report, compiled by Insurance Services Office, Inc. (ISO) using data from the WCAP database, covers a period of 6 years (FY99 through FY04).

Attorneys represented injured workers in 55.7% of all claims settled in FY04.

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Montana's Workers' Compensation System

- Declaration of Public Policy
- Insurance Coverage Requirements
- Life of a Claim
- Montana's Workers' Compensation System Administration
- Montana Workers' Compensation Market

Declaration of Public Policy[1]

It is an objective of the Montana workers' compensation system to provide, without regard to fault, wage loss and medical benefits to a worker suffering from a work-related injury or disease. Wage-loss benefits are not intended to make an injured worker whole; they are intended to assist the injured worker at a reasonable cost to the employer. Within that limitation, the wage-loss benefit should bear a reasonable relationship to actual wages lost as a result of a work-related injury or disease.

A worker's removal from the work force due to a work-related injury or disease has a negative impact on the injured worker, the injured worker's family, the employer, and the general public. Therefore, the main objective of the workers' compensation system is to return injured workers to work as soon as possible after suffering a work-related injury or disease.

Montana's workers' compensation and occupational disease insurance systems are intended to be primarily self-administering. Claimants should be able to obtain benefits speedily and employers should be able to provide coverage at reasonably constant rates. To meet these objectives, the system must be designed to minimize reliance upon lawyers and the courts to obtain benefits and interpret liabilities.

Title 39, chapters 71 and 72, MCA Workers' Compensation and Occupational Disease Acts, must be construed according to their terms and not liberally in favor of any party.

The legislature's intent regarding stress claims, often referred to as "mental-mental claims" and "mental-physical claims", does not allow for compensation under Montana's Workers' Compensation and Occupational Disease Acts. The legislature recognizes that these claims are difficult to verify objectively and that the claims have a potential to place an economic burden on the workers' compensation and occupational disease system. The legislature also recognizes that there are other states that do not provide compensation for various categories of stress claims and that stress claims have presented economic problems for certain other jurisdictions. The legislature has the authority to define the limits of the workers' compensation and occupational disease systems.

[1] §39-71-105, MCA (2003)

Insurance Coverage Requirements

If you are an employer or an employee, the Workers' Compensation and Occupational Disease Acts apply to you. An employer who has an employee in service under any appointment or contract of hire, expressed or implied, oral or written, must elect to be bound by the provisions of compensation Plan 1 (self-insured), Plan 2 (private insurance companies) or Plan 3 (Montana State Fund).

Employment Exempted

The Workers' Compensation and Occupational Disease Acts may not apply to any of the following employments:

- Household and domestic employment
- Casual employment
- Dependent member of an employer's family for whom an exemption may be claimed by the employer under the Federal Internal Revenue Code
- Sole proprietors, working members of a partnership, working members of a limited liability partnership, or working members of a member-managed limited liability company
- Real estate, securities or insurance salesperson paid solely by commission without a guarantee of minimum earnings
- A direct seller
- Employment for which a rule of liability for injury, occupational disease, or death is provided under the laws of the United States
- A person performing services in return for aid or sustenance only, except employment of volunteers
- Employment with a railroad engaged in interstate commerce, except railroad construction work
- An official, including a timer, referee, umpire or judge, at a school amateur athletic event
- A person performing services as a newspaper carrier or freelance correspondent
- Cosmetologist's services and barber's services
- A person who is employed by an enrolled tribal member or an association, business, corporation, or other entity that is at least 51% owned by an enrolled tribal member or members, whose business is conducted solely within the reservation
- A jockey who is performing under a license issued by the Board of Horse Racing, from the time the jockey reports to the scale room prior to a race through the time weighed out and has acknowledged in writing that jockey is not covered while performing services as a jockey
- Trainer, assistant trainer, exercise person or pony person who is providing services under the Board of Horse Racing while on the grounds of a licensed race meet
- An employer's spouse
- A petroleum land professional
- An officer of a quasi-public or a private corporation or manager of a manager-managed limited liability company
- A person who is an officer or a manager of a ditch company
- Service performed by an ordained, commissioned or licensed minister of a church
- Independent Contractors
- Providers of companionship services or respite care if a family member or legal guardian hires the person providing care.

Life of a Claim[2]

Accidents do happen and when a Montana worker files a workers' compensation claim, the life of that claim is dictated primarily by statute. Progress of a typical workers' compensation claim in Montana is determined by the following guidelines:

- Once the injury occurs, the injured worker or their authorized representative has 30 days from the date of injury to notify the employer (employer, managing agent or superintendent in charge of the work) or the insurer. [§39-71-603, MCA]

- The employer then has six days from date of notification of an injury to report the injury to the insurer or the Department of Labor and Industry (DLI). [§39-71-307, MCA, and ARM 24.29.801]

- The claimant or the claimant's representative has 12 months from the date of injury to file a claim. [§39-71-601(1), MCA] The claim filing time can be extended up to an additional 24 months if it can be proven that the worker was somehow prevented from filing the claim because of something the employer or the insurer said or did, or if the injury was latent or the worker lacked knowledge of disability. [§39-71-601(2), MCA]

- The signed claim form or First Report of Injury and Occupational Disease (FROI) (form ERD-991) can be submitted to the employer or sent directly to the insurer, the adjuster or the DLI. [§39-71-601(1), MCA]

- The insurer/adjuster shall accept or deny a claim within 30 days of receipt of a signed claim for compensation by the claimant or the claimant's representative. If the claim is denied, the worker is notified in writing of the denial. [§39-71-606, MCA]

- If further investigation is needed before the insurer accepts liability and the 30 day limitation for a decision on compensability is due to expire, the insurer/adjuster may pay wage loss and/or medical benefits without such payment being an indication of admission of liability or waiver of any right of defense. [§§39-71-608 and 39-71-615, MCA]

- The first 4 days or 32 hours (whichever is less) of total wage loss is not compensable but a claimant may use sick leave during this time. A claimant cannot use sick leave and receive wage loss benefits at the same time. [§39-71-736, MCA]

- In addition to using an emergency room or urgent care center, the claimant has the right to select the first treating physician (within the treating physician definition). The insurer must then approve changes of treating physicians. The insurer has the right to deny payment for any unauthorized medical referrals and treatments. [§39-71-1101, MCA, and ARM 24.29.1510]

- The physician bills the insurer/adjuster directly. Payment is made according to a fee schedule. [§39-71-704(2) and (3), MCA] Once the insurer has accepted a claim, the medical provider must accept the fee scheduled reimbursement, as payment in full and the claimant is not responsible for any balance.

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[2] MCA (2003)

- The claimant is responsible for payment of: (l) unauthorized treatment, (2) medical care not related to the injury, (3) medical services if treatment is not received for 60 months,

  (4) secondary medical services and palliative or maintenance care unless specifically covered and (5) medical procedures specifically excluded. [ARM 24.29.1401 and §39-71-704, MCA]

- Temporary total disability (TTD) benefits are based on 66⅔% of the claimant's average weekly gross wages, subject to a maximum of the state's average weekly wage, and are paid bi-weekly until the claimant returns to work or has reached maximum medical improvement (MMI). [§§39-71-701 and 39-71-740, MCA] If the claimant is classified as permanently totally disabled (PTD), benefits can continue until they reach retirement age. [§39-71-710, MCA]

- If prior to attaining maximum medical improvement (MMI) and due to medical restrictions, the claimant returns to work at less than the wages received at the time of injury, they may be entitled to temporary partial disability (TPD) benefits. Temporary partial disability is limited to 26 weeks unless extended by the insurer/adjuster. [§39-71-712, MCA]

- If after reaching MMI, the claimant has a residual impairment, greater than zero, the insurer/adjuster is required to pay out the permanent partial disability (PPD) liability bi-weekly, unless the claimant requests a lump sum payment. [§§39-71-703 and 39-71-741, MCA]

- Other permanent partial disability liability is based on age, education, loss of earning capacity and work capacity restrictions. These criteria are determined based on the specifics of each individual case. [§39-71-703, MCA]

- If the worker is precluded from returning to the job they held at the time of injury and suffers an actual wage loss or has an impairment of 15% or greater, they are eligible for rehabilitation services. The insurer/adjuster designates a rehabilitation provider and rehabilitation services are provided with the goal of returning the claimant to work as soon as possible. If a rehabilitation plan is established which indicates some type of retraining, the claimant may be eligible to receive monies for tuition, fees, books and other reasonable and necessary retraining expenses. The worker may also receive biweekly benefit payments based on their temporary total disability rate. [§39-71-1006, MCA] Financial assistance is also available for reasonable travel and relocation for training and job-related expenses, subject to a maximum amount of $4,000. [§39-71-1025, MCA]

- Medical benefits may remain available for at least 60 months (5 years) from the last date of service. The insurer may not be required to furnish palliative or maintenance care after the claimant has achieved MMI. [§39-71-704(1)(e), MCA]

[2] MCA (2003)

Montana Workers' Compensation System Administration

The Montana DLI, Employment Relations Division (ERD) provides a wide variety of services and regulation related to workers' compensation and safety.

Workers' Compensation Regulation Bureau

The **Carrier Compliance Unit** monitors compliance of private workers' compensation carriers (Plan 2). The unit also licenses professional employer organizations and processes extraterritorial agreements.

The **Contractor Registration Unit** ensures construction businesses with employees register and comply with workers' compensation requirements. The law provides protection from liability for workers' compensation claims for contractors who use the service of other registered construction contractors.

The **Independent Contractor Central Unit** issues decisions on employment relationships for the Department of Revenue, Labor Standards, Unemployment Insurance and Workers' Compensation Compliance. The unit also issues Independent Contractor (IC) Exemptions.

The **Medical Regulations Unit** administers a program that provides an effective and equitable method of health care cost containment. Medical fee schedules are established by the unit and utilized by insurers to reimburse medical providers.

The **Self-Insurance Unit** administers a program of employers who elect to be self-insured for workers' compensation (Plan 1).

The **Subsequent Injury Fund Unit** certifies workers with permanent impairments that have a substantial obstacle to obtaining employment. They administer the funds that are used to offset claim costs associated with subsequent injuries to these workers.

The **Uninsured Employers Fund Unit** ensures employers and employees are protected under the Workers' Compensation and Occupational Disease Acts. The unit enforces coverage requirements for all employers, pays benefits to injured workers whose employers did not have workers' compensation coverage and manages the fund from which benefits are paid.

Workers' Compensation Claims Assistance Bureau

The **Claims Unit** ensures compliance with the Workers' Compensation and Occupational Disease Acts relating to benefits and claims. The unit also regulates attorney fees, administers the occupational disease evaluation process and provides assistance to insurers, attorneys and injured workers.

The **Data Management Unit** ensures compliance with claims reporting standards, maintains the workers' compensation database system and provides a comprehensive annual report on workers' compensation to the governor and the legislature.

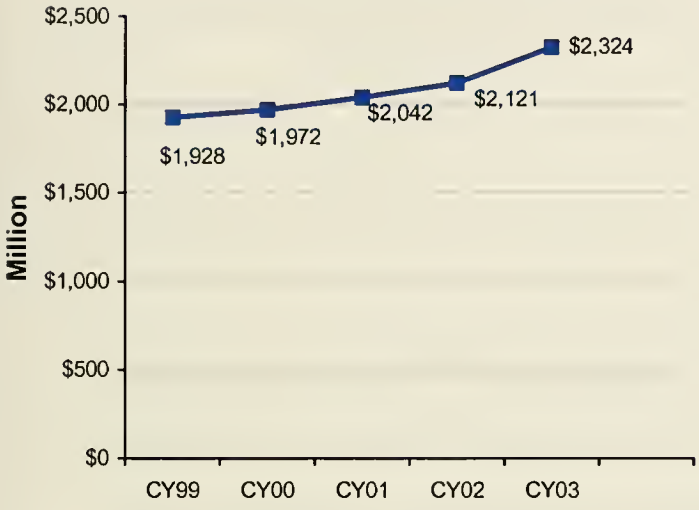
The **Mediation Unit** provides an alternative method of resolving workers' compensation benefit disputes before the dispute goes to the Workers' Compensation Court. This is a mandatory non-binding process.

Occupational Safety & Health Bureau

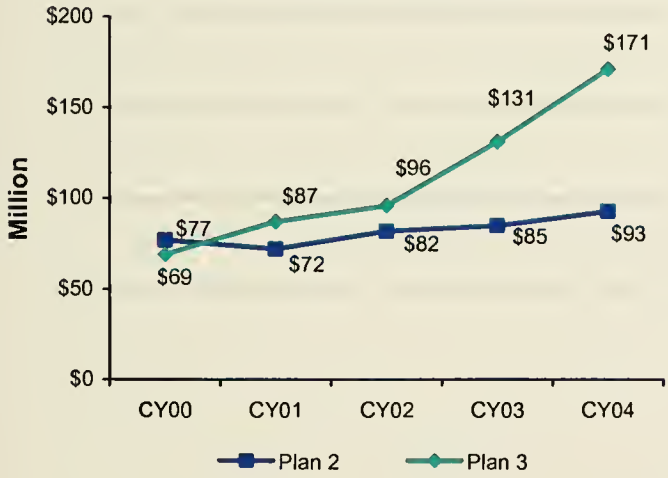
The **Occupational Safety & Health Bureau** conducts inspections of public employers, performs on-site consultations for private employers, and inspects coal mines and sand and gravel operations throughout the state. The Bureau provides safety and occupational health training for both public and private employers.

Montana Workers' Compensation Market

Gross Annual Payroll[2]
Plan 1 - By Calendar Year



Premium Dollars
Plans 2 and 3 - By Calendar Year



Montana employers have options for obtaining workers' compensation coverage for their employees.

Employers with sufficient cash reserves may qualify as self-insured (Plan 1), either individually or by joining with other employers in their industry to form a self-insured group. Montana currently has 38 individual self-insured employers, four private groups (123 employers) and five public groups (559 employers).

Employers may obtain coverage with private insurance companies (Plan 2) in the voluntary market. During calendar year 2004, there were 453 private insurance companies who were authorized to write workers' compensation insurance in Montana.

Employers can insure through Montana State Fund (Plan 3). As the insurer of last resort, the Montana State Fund assures all Montana employers can provide workers' compensation insurance for their employees.

The change in the Plan 1 and insurer's market share is reflected in the table below.

Market Share
By Plan[1] and Calendar Year

Calendar Year	2000	2001	2002	2003	2004
Plan 1 – Payroll	$1,971,770,980	$2,042,192,981	$2,121,728,801	$2,324,840,487	*N/A
Plan 2 – Premium	$77,129,965	$72,431,388	$81,725,533	$85,081,186	$92,915,175
Plan 3 – Premium	$69,411,843	$86,813,640	$95,558,150	$131,804,047	$171,439,374

Note:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund
[2]Calendar year 2004 Gross Annual Payroll data was not available when this report was published.

Court Cases and Decisions

- Significant Workers' Compensation Court Cases
- Montana Supreme Court Decisions on Workers' Compensation & Occupational Disease

Significant Workers' Compensation Court Cases

Case summaries are taken from the Workers' Compensation Court Website: http://wcc.dli.mt.gov

JONATHAN LION vs. MONTANA STATE FUND
2005 MTWCC 11

Summary: The claimant successfully completed a rehabilitation plan calling for flight training leading to his certification as a flight instructor and air carrier pilot. When he could not find employment as a pilot, he petitioned the Court for further rehabilitation benefits amounting to approximately $200,000 to allow him to gain more flying time so he could primarily seek flying contracts with the State of Montana and United States Forest Service.

Held: The request for additional benefits under section 39-71-2001, MCA (1991), is denied since (1) only one rehabilitation plan is allowed and the original plan was completed; (2) the additional benefits would exceed the 104-week limitation imposed by the section; (3) the new plan has not been certified as reasonable by any vocational provider; and (4) the claimant has not proven to the satisfaction of the Court that the new plan would result in a reasonable prospect of regular employment. Any one of the grounds is a sufficient basis for denial.

JANNA WEISGERBER vs. AMERICAN HOME ASSURANCE COMPANY
2005 MTWCC 8

Summary: The claimant seeks permanent total disability benefits on account of an occupational disease arising out of her exposure to hair dye and other aerosolized chemicals at her workplace. The claimant's primary and most significant problem is vocal cord dysfunction where her vocal cords go into spasm and constrict her breathing.

Held: The claimant's employability must take into account her preexisting disabilities at the time her occupational disease arose. Under section 39-71-609(2), MCA (2001), upon the claimant reaching maximum medical improvement and the insurer's termination of temporary total disability benefits, the insurer has the burden of producing evidence that, taking into consideration not only the claimant's disability directly attributable to her occupational disease but also other disabilities existing at the time her occupational disease arose, the claimant is qualified for and physically capable of performing regular work. The failure of the insurer to do so, along with evidence tending to indicate that the claimant is not able to do the jobs identified by the insurer, requires the Court to find the claimant to be permanently totally disabled.

ANNA SWAN vs. PACIFIC EMPLOYERS INSURANCE COMPANY
2004 MTWCC 68

Summary: The claimant suffered a non work-related low-back injury in 1998 and had surgery at her L3-L5 disk levels. She recovered from the surgery and returned to work as a nurse's aide, then suffered an additional injury to her low back. As a result of her work injury, she underwent additional surgery at the L3-S1 levels of her back. Following that surgery, her surgeon gave her a 16% whole person impairment rating. However, he also opined that she suffered an 8% impairment as a result of her 1998, non-industrial accident. Based on the latter opinion, the insurer paid only an 8% impairment award. The claimant brought the present petition for the difference between the 8% award and her 16% impairment.

Held: Where a claimant suffers an industrial injury to the same part of the body which has previously been injured, and the impairment rating for her industrial injury is a singular rating based on the part of the body rated, she is entitled to the full amount of the award without deduction for an estimate of her prior, pre-industrial injury impairment.

DEBRA STAVENJORD vs. MONTANA STATE FUND
2004 MTWCC 62

Summary: The claimant urges that the decision in this case – *Stavenjord v. State Compensation Ins. Fund*, 2001 MTWCC 25, aff'd, 2003 MT 67, 314 Mont. 466, 67 P.3d 229 – applies retroactively and seeks common fund attorney fees.

Held: *Stavenjord v. State Compensation Ins. Fund,* 2001 MTWCC 25, aff'd, 2003 MT 67, 314 Mont. 466, 67 P.3d 229, is retroactive but only to June 3, 1999. A common fund exists with respect to claimants reaching maximum medical improvement after June 3, 1999.

Note: This latest decision was stayed and appealed to the Montana Supreme Court on 9/21/04. That appeal is pending.

DOUG OTTESON vs. MONTANA STATE FUND
2004 MTWCC 44

Summary: The claimant, who is permanently totally disabled, seeks a declaratory judgment finding that he is entitled to permanent *partial* disability benefits upon becoming eligible for social security disability benefits, at which time his permanent total disability benefits will terminate.

Held: The claimant is not entitled to permanent partial disability benefits since he is not and has not been permanently partially disabled. His reliance on *Hunter v. Gibson Products of Billings Heights, Inc.*, 224 Mont. 481, 730 P.2d 1139 (1986) and *Russette v. Chippewa Cree Housing Authority,* 265 Mont. 90, 874 P.2d 1217 (1994), is misplaced.

Note: This case was appealed to the Montana Supreme Court on 6/1/04. That appeal is pending.

LAURIE PLAIN BULL DOOR vs. MONTANA STATE FUND and UNINSURED EMPLOYERS' FUND
2004 MTWCC 42

Summary: Garland Victor Door, Sr. died in a work-related accident while driving truck for Warren Bell. Bell, an enrolled tribal member operating a trucking business on the Crow Reservation, had contracted to haul cattle for Smoke Signals Land and Cattle Company, LLC, a business involving Terry and Coral Langstraat, non-Native Americans, and Merle Plain Feather, an enrolled member of the Crow Tribe. The accident occurred in Carbon County, Montana, off the reservation. Since the accident occurred off the reservation, Garland Door's beneficiaries are entitled to death benefits under the Montana Workers' Compensation Act. The sole question presented is whether the Uninsured Employers' Fund is liable for those benefits since Warren Bell was uninsured, or whether the Montana State Fund, which insured Terry and Coral Langstraat, is liable under section 39-71-405, MCA (1979-2003).

Held: The Montana State Fund is liable. Smoke Signals and the Langstraats were not exempt from workers' compensation insurance requirements since their business was not confined to the Crow Reservation. § 39-71-401(1)(m), MCA (2001). Moreover, even if they were exempt from insurance requirements, section 39-71-405, MCA (1979-2003), makes them liable for benefits due an employee of a non-exempt uninsured subcontractor.

MICHAEL O. WOODWORTH vs. LIBERTY NORTHWEST INSURANCE COMPANY
2004 MTWCC 35

Summary: Pursuant to section 39-71-703(5)(c), MCA (1999), the claimant is seeking a ten percent permanent partial disability award for lost wages. He injured his neck on June 30, 2001, in an industrial accident and thereafter underwent a cervical diskectomy and fusion. Following his surgery, he returned to work in his time-of-injury job as a millwright but was unable to work the overtime hours he had been working prior to his injury. Also, he returned to work prior to reaching maximum medical improvement (MMI). He suffered a wage loss until some ten weeks after he reached MMI. Then, approximately fifteen months later, he changed jobs because he was physically unable to continue working in his time-of-injury job. He suffered a wage loss in the new job, however, his wage loss lasted only sixteen and one-half weeks assuming his loss is measured by his wage at the time of his injury without consideration of any increases thereafter.

Held: Under section 39-71-703(5)(c), MCA (1997-2001), the claimant is entitled to a ten percent permanent partial disability award for wage loss. Where a claimant returns to work upon reaching MMI, wage loss must be measured by comparing his pre-injury wage with his average wage during the first four pay periods following MMI. In the event the claimant is able to return to his time-of-injury job and has no wage loss upon reaching MMI but thereafter is physically unable to continue working at his time-of-injury job or can only work on a reduced schedule, his wage loss must be measured at that time using the same four pay period parameter beginning at the time of his loss.

RODNEY OENS vs. EMPLOYEE BENEFITS INSURANCE COMPANY
2004 MTWCC 30

Summary: The claimant suffered a neck injury in 1983 and underwent a single-level cervical fusion in 1984. In 1985 he settled his claim on a full and final compromise basis but reserved medical benefits. Later in 1985 he experienced further neck pain and underwent a further fusion at the lower level. Shortly thereafter, he inquired about reopening his settlement but took no further action. In 1990 he suffered another injury and the insurer thereupon cut-off further medical benefits. He continued to have neck pain and returned to his 1984 treating physician who opined that his continuing problems were all attributable to the 1983 injury. In 2002 claimant underwent a further fusion at levels above his 1984 fusion. He now seeks to reopen his 1985 settlement, alleging mutual mistake of fact as to the nature and extent of his neck condition.

Held: The claim is time-barred. In 1985 the claimant was aware of facts, which are the basis for the reopening and inquired about reopening at that time. Under section 27-2-203, MCA, he was required to seek reopening within two years of his discovery of the facts upon which his request is based. He failed to do so. Moreover, he has failed to establish that there was a mutual mistake of fact. In 1984 his treating physician told him of the possibility of future problems at other levels and the insurer was aware of that potential.

RUBEN FELLENBERG vs. TRANSPORTATION INSURANCE COMPANY
2004 MTWCC 29

Summary: The claimant worked for W.R. Grace at its Libby mine until 1986 when he retired. In 1985 he was diagnosed with asbestosis and filed an occupational disease claim. At the time the disease did not preclude him from working and his subsequent retirement was not due to his disease but rather to his desire to simply retire. Over the years since his retirement, the claimant's asbestos lung disease has progressed such that he is now on occasional supplemental oxygen and limited to sedentary work. He is doing volunteer bookkeeping ten hours a week and he is able to drive, cook, shop, and do household chores even though he is short of breath. He now seeks an impairment award, permanent partial disability benefits and, in the alternative, permanent or temporary total disability benefits. Medical benefits are not at issue.

Held: The 1983 law governs the claimant's requests since that was the law in effect at the time he filed his claim. Under that law, he is not entitled to an impairment award since that award is part of permanent partial disability benefits and permanent partial disability benefits are not available under the 1983 Occupational Disease Act, at least until such time as the claimant becomes permanently totally disabled. Similarly, non-impairment permanent partial disability benefits are unavailable. Since the claimant's condition is degenerative and will never improve with any further treatment he has been at maximum medical improvement (MMI) virtually since he was diagnosed with asbestosis and is therefore not entitled to temporary total disability (TTD) benefits. As to his request for permanent total disability (PTD) benefits, he has not proven to the Court's satisfaction that he has a wage loss attributable to his disease (he voluntarily retired and removed himself from the labor market) or that he has no reasonable prospect of obtaining even sedentary jobs if he decided to return to the labor market, therefore he is not entitled to PTD benefits.

Note: This case was appealed to the Montana Supreme court and affirmed on 4/12/05.

MICHAEL E. MOSCA vs. AMERICAN HOME ASSURANCE COMPANY
2004 MTWCC 6

Summary: Claimant, a driller's helper engaged in heavy labor, woke up on a Saturday morning with extreme back and leg pain, which he thought, was caused by a bone spur on his foot. He sought medical care on Monday. On Wednesday he was diagnosed with a herniated disk (L5-S1 level). He was unable to return to work and on Friday his wife indicated to his employer that he believed his herniated disk might be work related: she provided the employer with a blank First Report of Injury form but the employer refused to fill it out and did not report any injury to its insurer. Within thirty days of his last day of work, claimant sent a written claim to the Montana Department of Labor and Industry, which passed the claim on to the insurer. The insurer denied the claim and persisted in its denial despite uncontradicted medical opinions that claimant's condition was either a work-related injury or occupational disease.

Held: The uncontroverted medical evidence shows that claimant's herniated disk was work related. In light of the lack of a specific incident related to the condition, the best medical evidence is that it occurred over time and is therefore an occupational disease. He reported as much as he knew about his condition and its cause within thirty days, therefore, his notice was timely under both the Workers' Compensation Act and the Occupational Disease Act. In light of uncontradicted evidence establishing that claimant suffered either an industrial injury or occupational disease and timely reported it, the insurer's denial of his claim was unreasonable and reprehensible.

Other Cases

There are a series of workers' compensation cases proceeding through the court system, which deal with common fund and class action requests. These cases can be tracked at: http://wcc.dli.mt.gov/common_fund_litigation.asp

Montana Supreme Court Decisions on Workers' Compensation and Occupational Disease

These decisions can be found at the State Law Library Website: www.lawlibrary.state.mt.us

DALE REESOR vs. MONTANA STATE FUND
2004 MT 370

Summary: Claimant was receiving social security retirement benefits at the time he suffered an industrial accident. He received an impairment award but was denied other permanent partial disability (PPD) benefits pursuant to section 39-71-710, MCA (1999), which provides that persons who are receiving social security benefits or are eligible for full social security retirement benefits are ineligible for PPD benefits other than an impairment award.

Held: The Supreme Court found section 39-71-710 MCA to be in violation of the Equal Protection Clause of the Montana Constitution.

MINDY VAN VLEET vs. MONTANA ASSOCIATION OF COUNTIES WORKERS' COMPENSATION TRUST
2004 MT 367

Summary: The petition in this matter arises out of the death of Shawn Van Vleet (referred to hereinafter as "decedent" or "deputy Van Vleet"). His death occurred on January 31, 2001, as a result of his fall from the fourth or fifth floor balcony of the Holiday Inn in Great Falls, Montana. At the time of is death; decedent was a Deputy Sheriff for Phillips County and attending a Montana Narcotics Officers Association conference. He was intoxicated when he fell.

Held: The Supreme Court overturned the Workers' Compensation Court in this case and found that officer Van Vleet was in the course and scope of his employment at the time of his death.

WILLIAM HARDGROVE vs. TRANSPORTATION INSURANCE COMPANY
2004 MT 340

Summary: Claimant and insurer jointly petitioned the Court for a determination as to whether the claimant's asbestosis claim is time-barred. He ceased working for W.R. Grace in 1984. At the time of his retirement section 39-72-403(3), MCA, provided that any claim for occupational disease benefits must be brought within three years after the claimant-ceased employment. The provision was repealed in 1985. In 1998 claimant was diagnosed with asbestosis resulting from his work for W.R. Grace.

Held: The Supreme Court affirmed the Workers' Compensation Court decision that the claim is time-barred.

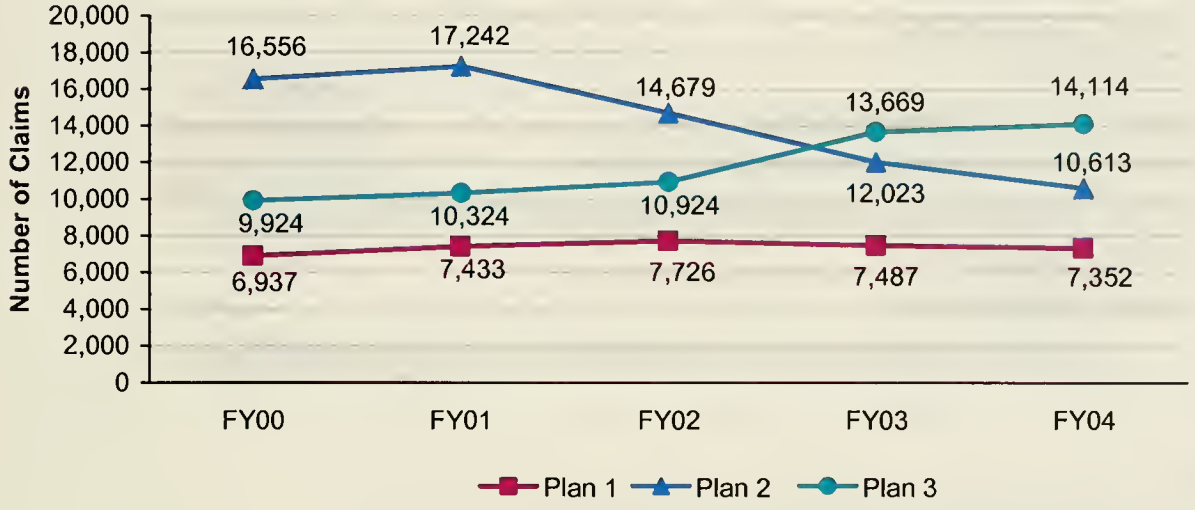
Claim Statistics

- Comparison of Claims by Plan Type
- Injured Worker Characteristics
- Insurer Denial of Claims

Comparison of Claims by Plan Type

This section provides the most current statistical summary available on the status of Montana's workers' compensation system through FY04. The information is based on First Reports of Injury and Occupational Disease received by the department. Both medical only and indemnity claims are included.

Reported Claims[1] - Five Year Trend
By Plan Type[2]



Notes:
[1]Total claim numbers continually change due to reporting.
[2]Plan types: Plan 1 – Self Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund.

Reported Claims[1]
By Plan Type[2] and Fiscal Year of Injury

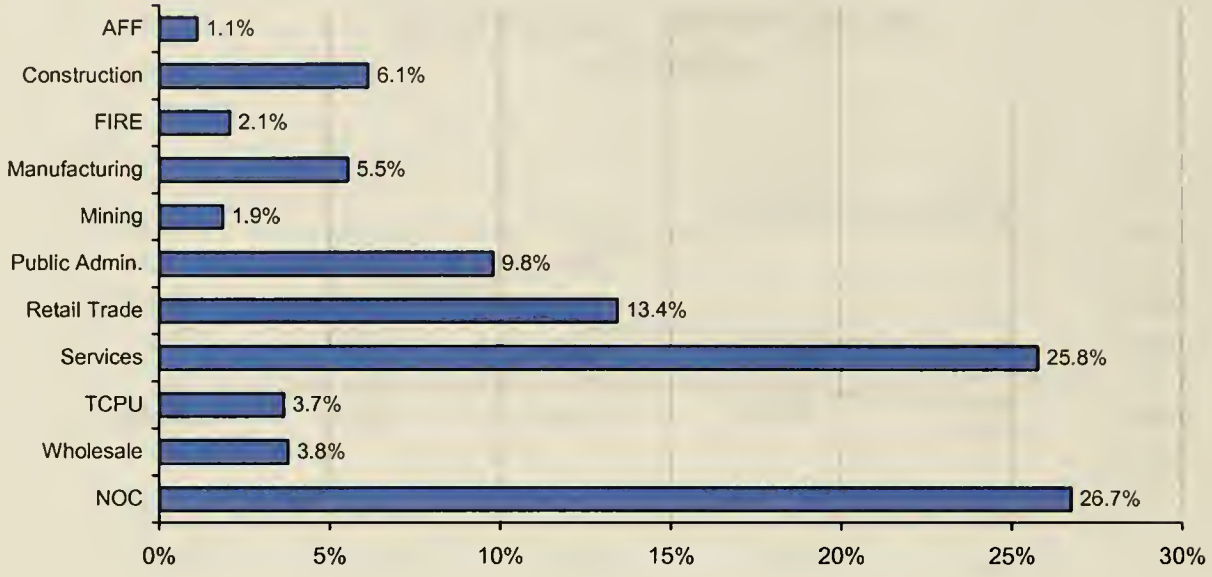
	FY00		FY01		FY02		FY03		FY04	
Plan Type	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	6,937	20.7%	7,433	21.2%	7,726	23.1%	7,487	22.5%	7,352	22.9%
Plan 2	16,556	49.4%	17,242	49.1%	14,679	44.0%	12,023	36.2%	10,613	33.0%
Plan 3	9,924	29.6%	10,324	29.4%	10,924	32.7%	13,669	41.1%	14,114	43.9%
NOC[3]	78	0.2%	111	0.3%	68	0.2%	51	0.2%	61	0.2%
Total	***33,495***	***100%***	***35,110***	***100%***	***33,397***	***100%***	***33,230***	***100%***	***32,140***	***100%***

Notes:
[1]Total claim numbers continually change due to reporting.
[2]Plan types: Plan 1 – Self Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund.
[3]NOC means Not Otherwise Classified.

Injured Worker Characteristics

Reported Claims - FY04

By Standard Industrial Classification Major Groups[1]



Notes:
[1]Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987.*
AFF means Agriculture, Forestry and Fishing.
FIRE means Finance, Insurance and Real Estate.
TCPU means Transportation, Communication and Public Utilities.
NOC means Not Otherwise Classified.

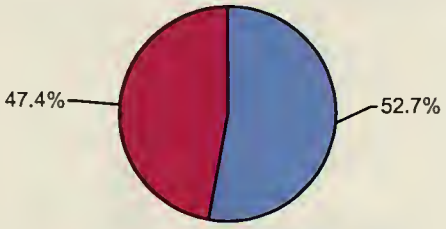
Reported Claims[1]

By Standard Industrial Classification Major Groups[2] and Fiscal Year of Injury

Standard Industrial Classification	FY00		FY01		FY02		FY03		FY04	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Agriculture, Forestry & Fishing	485	1.45%	420	1.20%	371	1.11%	429	1.29%	360	1.1%
Construction	2,494	7.45%	2,506	7.14%	2,263	6.78%	2,108	6.34%	1,975	6.1%
Finance, Insurance & Real Estate	499	1.49%	962	2.74%	601	1.80%	737	2.22%	672	2.1%
Manufacturing	2,760	8.24%	2,694	7.67%	2,422	7.25%	2,190	6.59%	1,782	5.5%
Mining	618	1.85%	598	1.70%	551	1.65%	467	1.41%	604	1.9%
Public Administration	7,060	9.62%	3,247	9.25%	3,735	11.18%	3,623	10.90%	3,154	9.8%
Retail Trade	3,222	14.43%	4,974	14.17%	4,702	14.08%	4,315	12.99%	4,321	13.4%
Services	4,834	24.63%	8,867	25.25%	8,044	24.09%	8,475	25.50%	8,284	25.8%
Transportation, Communication & Public Utilities	8,248	4.82%	1,622	4.62%	1,416	4.24%	1,304	3.92%	1,176	3.7%
Wholesale Trade	1,615	4.95%	1,572	4.48%	1,417	4.24%	1,382	4.16%	1,218	3.8%
NOC[3]	1,660	21.08%	7,648	21.78%	7,875	23.58%	8,200	24.68%	8,594	26.7%
Total	***33,495***	***100%***	***35,110***	***100%***	***33,397***	***100%***	***33,230***	***100%***	***32,140***	***100%***

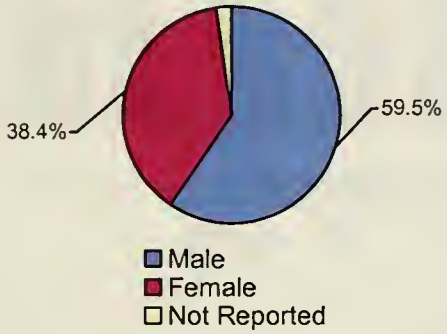
Notes:
[1]Some counts may vary slightly from previous reports due to corrections from insurers.
[2]Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987.*
[3]NOC means Not Otherwise Classified.

Employed Population Composition[1] - FY04



According to the U.S. Department of Labor, the 2004 employed population in Montana was almost equally divided between male and female workers, with males at just over 52% of the total workforce.

Reported Claims - FY04



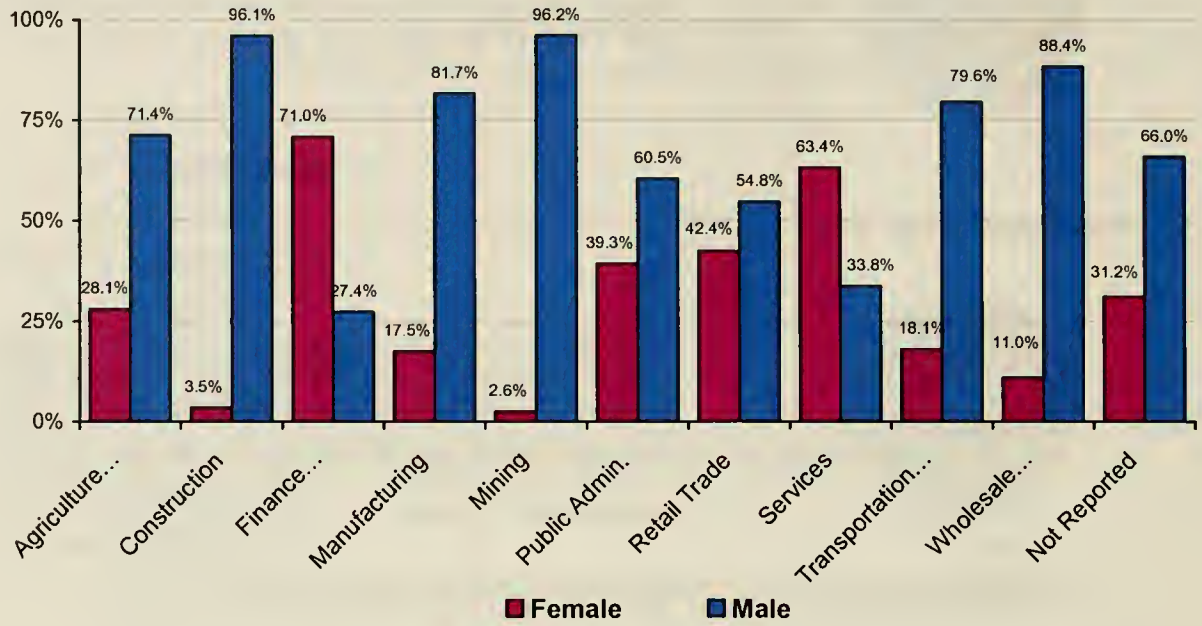
Despite a relatively balanced workforce, male claims accounted for almost 60% of the total reported injuries in 2004. There are only 11.2% more men in the workforce than women, yet men experienced almost 55% more claim-related injuries than women.

Reported Claims
By Gender and Fiscal Year of Injury

	FY00		FY01		FY02		FY03		FY04	
Gender	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**
Female	12,254	36.6%	13,544	36.6%	12,867	38.6%	12,986	39.1%	12,331	38.4%
Male	21,034	62.8%	21,414	62.8%	20,425	61.0%	19,719	59.4%	19,131	59.5%
Not Reported	207	0.6%	152	0.4%	105	0.3%	522	1.5%	678	2.1%
Total	***33,495***	***100%***	***35,110***	***100%***	***33,397***	***100%***	***33,230***	***100%***	***32,140***	***100%***

Notes:
[1] Based on total employed population of 452,000 (238,000 male and 214,000 female); figures provided by U.S. Department of Labor, Bureau of Labor Statistics, "*Employment status of the civilian noninstitutional population in states by sex, detailed age, race, and Hispanic origin*", http://stats.bls.gov/lau/home.htm
[2]Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987.*
[3]Totals may not sum exactly due to rounding.
[4]NOC means Not Otherwise Classified.

Reported Claims - FY04
By Standard Industrial Classification Major Groups[1] and Gender

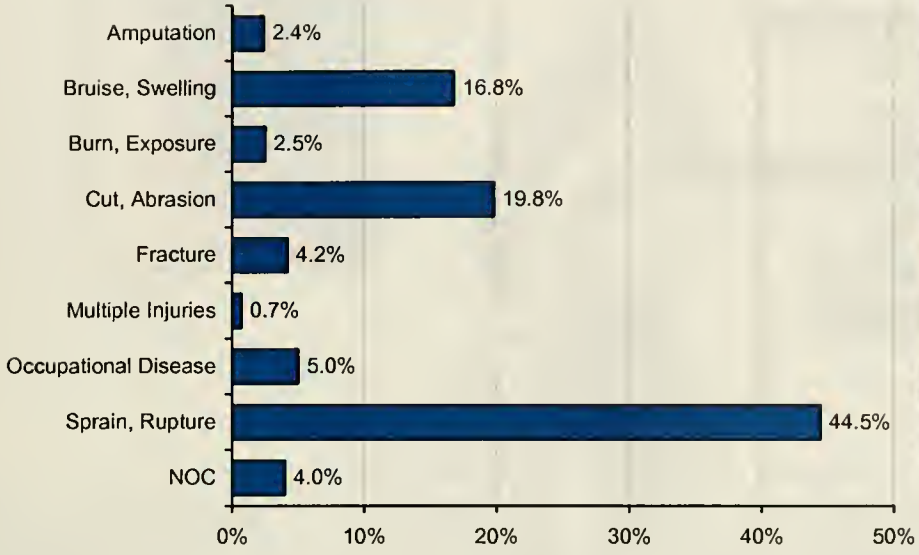


Reported Claims - FY04
By Standard Industrial Classification Major Groups[1] and Gender

Standard Industrial Classification	Female		Male		Not Reported		Total	
	Count	Percent[2]	Count	Percent[2]	Count	Percent[2]	Count	Percent[2]
Agriculture, Forestry & Fishing	101	28.1%	257	71.4%	2	0.6%	360	100%
Construction	70	3.5%	1,898	96.1%	7	0.4%	1,975	100%
Finance, Insurance & Real Estate	477	71.0%	184	27.4%	11	1.6%	672	100%
Manufacturing	312	17.5%	1,456	81.7%	14	0.8%	1,782	100%
Mining	16	2.6%	581	96.2%	7	1.2%	604	100%
Public Administration	1,240	39.3%	1,908	60.5%	6	0.2%	3,154	100%
Retail Trade	1,833	42.4%	2,366	54.8%	122	2.8%	4,321	100%
Services	5,253	63.4%	2,796	33.8%	235	2.8%	8,284	100%
Transportation, Communication and Public Utilities	213	18.1%	936	79.6%	27	2.3%	1,176	100%
Wholesale Trade	134	11.0%	1,077	88.4%	7	0.6%	1,218	100%
NOC[2] SIC codes	2,682	31.2%	5672	66.0%	240	2.8%	8,594	100%
Total	***12,331***	***38.4%***	***19,131***	***59.5%***	***678***	***2.1%***	***32,140***	*100%*

Notes:
[1]Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987.*
[2]Percentages based on total claims per SIC code, including female, male, and "Not Reported" gender types.

Reported Claims - FY04
By Nature of Injury

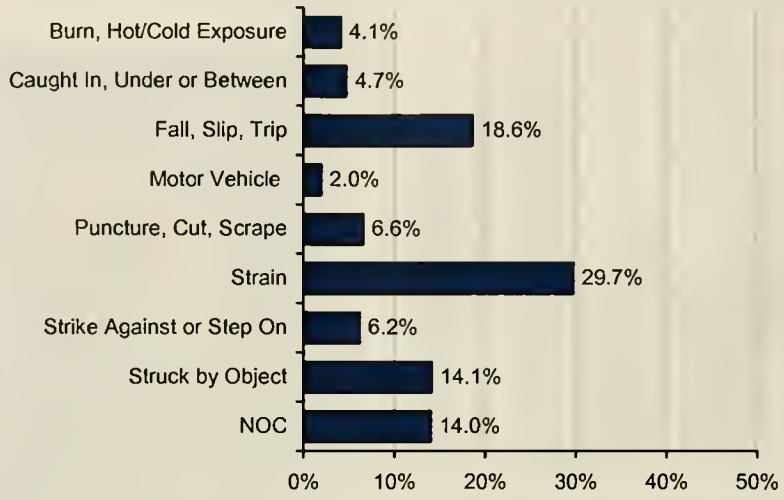


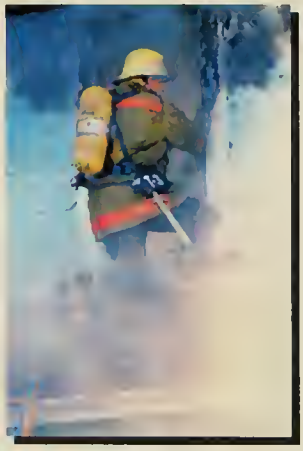
Reported Claims
By Nature of Injury[1] and Fiscal Year of Injury

	FY00		FY01		FY02		FY03		FY04	
Nature of Injury	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**
Amputation	675	2.0%	681	1.9%	655	2.0%	782	2.4%	782	2.4%
Bruise, Swelling	4,894	14.6%	5,647	16.1%	5,092	15.2%	5,523	16.6%	5,402	16.8%
Burn, Exposure	907	2.7%	902	2.6%	931	2.8%	769	2.3%	815	2.5%
Cut, Abrasion	6,896	20.6%	7,094	20.2%	6,768	20.3%	6,599	19.9%	6,377	19.8%
Fracture	1,559	4.7%	1,500	4.3%	1,437	4.3%	1,450	4.4%	1,357	4.2%
Multiple Injuries	549	1.6%	357	1.0%	251	0.8%	226	0.7%	213	0.7%
Occupational Disease	1,790	5.3%	1,961	5.6%	1,825	5.5%	1,824	5.5%	1,613	5.0%
Sprain, Rupture	13,523	40.4%	14,385	41.0%	14,260	42.7%	14,454	43.5%	14,298	44.5%
NOC[2]	2,702	8.0%	2,583	7.3%	2,178	6.5%	1,603	4.8%	1,283	4.0%
Total	***33,495***	***100%***	***35,110***	***100%***	***33,397***	***100%***	***33,230***	***100%***	***32,140***	***100%***

Notes:
[1]Source: International Association of Industrial Accident Boards and Commissions (IAIABC) – Electronic Data Interchange (EDI) definitions. See "Definitions", page 58.
[2]NOC means Not Otherwise Classified.

Reported Claims - FY04
By Cause of Injury





Reported Claims
By Cause of Injury[1] and Fiscal Year of Injury

	FY00		FY01		FY02		FY03		FY04	
Cause of Injury	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Burn, Hot/Cold Exposure	1,434	4.3%	1,340	3.8%	1,422	4.3%	1,268	3.8	1,308	4.1%
Caught In, Under or Between	1,416	4.2%	1,487	4.2%	1,407	4.2%	1,604	4.8	1,507	4.7%
Fall, Slip, Trip	5,584	16.7%	6,766	19.3%	5,910	17.7%	5,982	18.0	5,978	18.6%
Motor Vehicle	601	1.8%	656	1.9%	596	1.8%	577	1.7	629	2.0%
Puncture, Cut, Scrape	2,821	8.4%	2,962	8.4%	2,700	8.1%	2,311	7.0	2,125	6.6%
Strain	9,938	29.7%	10,366	29.5%	10,128	30.3%	10,177	30.6	9,540	29.7%
Strike Against or Step On	2,087	6.2%	2,005	5.7%	2,001	6.0%	1,907	5.7	1,992	6.2%
Struck by Object	4,579	13.7%	4,573	13.0%	4,568	13.7%	4,622	13.9	4,536	14.1%
NOC[2]	5,035	15.0%	2,955	14.1%	4,665	13.9%	4,782	14.4	4,525	14.0%
Total	***33,495***	***100%***	***35,110***	***100%***	***33,397***	***100%***	***33,230***	***100%***	***32,140***	***100%***

Reported Claims – FY04
By Industry and Cause of Injury[1]

Industry	Burn Exposure	Caught in or Between	Puncture, Cut by	Fall, Slip, Trip	Vehicle Related	Strain, Jump, Lift	Hit against, Step on	Struck by	All others	NOC	Totals
AFF	3.1%	8.9%	3.3%	16.9%	2.5%	20.0%	6.4%	25.6%	13.3%	0.0%	100%
Construction	2.0%	5.8%	8.8%	15.4%	1.6%	27.3%	6.4%	13.6%	18.7%	0.3%	100%
FIRE	3.3%	4.0%	1.0%	20.7%	1.8%	31.0%	5.5%	10.9%	21.7%	0.1%	100%
Manufacturing	3.1%	6.7%	7.8%	12.0%	1.2%	29.8%	7.5%	13.6%	18.1%	0.2%	100%
Mining	3.8%	9.1%	6.0%	12.4%	4.0%	26.5%	6.6%	17.5%	14.1%	0.0%	100%
Public Agencies	6.1%	3.7%	3.8%	19.4%	2.4%	23.7%	6.6%	15.8%	18.5%	0.1%	100%
Retail Trade	5.0%	3.7%	11.0%	17.5%	1.3%	32.8%	6.2%	10.7%	11.6%	0.2%	100%
Services	4.1%	4.2%	6.3%	21.3%	1.6%	30.0%	5.6%	14.9%	11.9%	0.1%	100%
TCPU	3.1%	3.7%	2.5%	19.6%	3.4%	35.3%	7.6%	13.9%	10.9%	0.2%	100%
Wholesale Trade	2.9%	6.2%	6.1%	14.5%	2.5%	33.5%	5.4%	14.6%	13.6%	0.6%	100%
Not Reported	4.0%	5.0%	6.4%	18.8%	2.4%	29.9%	5.9%	14.2%	12.9%	0.4%	100%
% of Total Injuries	***4.1%***	***4.7%***	***6.7%***	***18.5%***	***2.0%***	***29.7%***	***6.1%***	***14.1%***	***13.9%***	***0.2%***	***100%***

Notes:

[1]Source: International Association of Industrial Accident Boards and Commissions (IAIABC) – Electronic Data Interchange (EDI) definitions. See "Definitions", page 57.

[2]NOC means Not Otherwise Classified.

Reported Claims - FY04
By Part of Body

Reported Claims
By Part of Body[1] and Fiscal Year of Injury

	FY00		FY01		FY02		FY03		FY04	
Part of Body	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**
Back	6,612	19.7%	6,885	19.6%	6598	19.8%	6,624	19.9%	6,535	20.3%
Head	3,756	11.2%	3,845	11.0%	3809	11.4%	3,766	11.3%	3,622	11.3%
Knees	2,197	6.6%	2,380	6.8%	2334	7.0%	2,472	7.4%	2,533	7.9%
Lower Extremities	3,489	10.4%	3,639	10.4%	3517	10.5%	3,572	10.7%	3,425	10.7%
Multiple Parts	2,481	7.4%	2,511	7.2%	1851	5.5%	1,647	5.0%	1,343	4.2%
Neck	716	2.1%	751	2.1%	758	2.3%	826	2.5%	800	2.5%
Trunk	1,969	5.9%	2,045	5.8%	2105	6.3%	2,083	6.3%	2,075	6.5%
Upper Extremitites	10,430	31.1%	11,046	31.5%	10549	31.6%	10,398	31.3%	10,019	31.2%
Wrist	1,662	5.0%	1,707	4.9%	1685	5.0%	1,641	4.9%	1,593	5.0%
All Other Claims, NOC[2]	183	0.6%	301	0.9%	191	0.6%	201	0.7%	195	0.6%
Total	***33,495***	***100%***	***35,110***	***100%***	***33,397***	***100%***	***33,230***	***100%***	***32,140***	***100%***

Notes:
[1]Source: International Association of Industrial Accident Boards and Commissions (IAIABC) – Electronic Data Interchange (EDI) definitions. See "Definitions", page 59.
[2]NOC means Not Otherwise Classified.

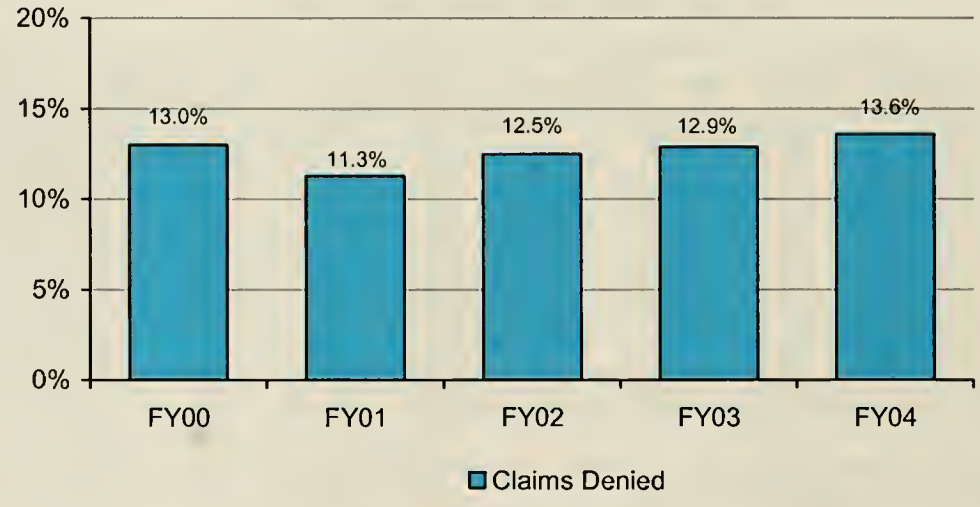
Insurer Denial of Claims

Insurer Denial of Claims[1]
By Reason of Denial and Fiscal Year of Injury

Reason for Claim Denial		FY00	FY01	FY02	FY03	FY04
Coverage Issue	Corporate officer rejected	9	1	0	0	3
	Elects no coverage	6	6	2	3	3
	Independent Contractor issue	3	6	2	1	2
	Question which insurer liable	27	16	15	9	16
	No coverage	40	30	14	6	22
Definition of Injury	Heart attack - not caused by accident	13	6	13	10	16
	Does not meet definition of injury	478	391	393	426	459
	Does not meet definition of Occupational Disease	66	52	59	47	67
	Stress - not compensable	24	31	27	23	27
Insufficient Information	Incomplete or missing information necessary to accept liability	68	181	113	47	48
Late Claim Filing	Injury	72	45	49	48	47
	Occupational Disease	1	1	2	1	0
No Employer Notice	No 30-day notice to employer or insurer	180	149	135	100	188
Not in Course & Scope	Not in course and scope of employment	260	229	212	208	344
No Objective Medical	No objective medical findings to substantiate injury	2,349	2,039	2,483	2,338	2,928
Other	Other	338	254	285	193	194
Total		***3,934***	***3,437***	***3,804***	***3,460***	***4,364***

Note:
[1]The insurer may later accept claims initially denied. Statistics on accepted injuries subsequent to a denial are not currently available.

Insurer Denial of Claims[1]
By Percent and Fiscal Year of Injury



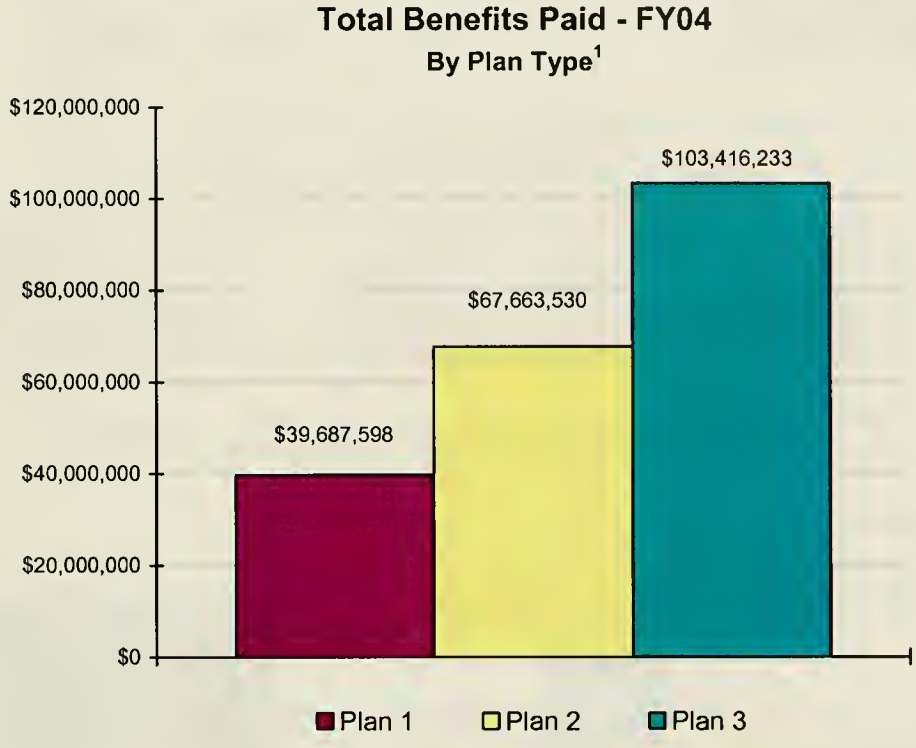
Note:
[1]The insurer may later accept claims initially denied. Statistics on accepted injuries subsequent to a denial are not currently available.

Benefits

- Total Benefits
- Benefit Report Data
- Settlement Dollars
- Settlement Attorney Fees
- Rehabilitation

Total Benefits

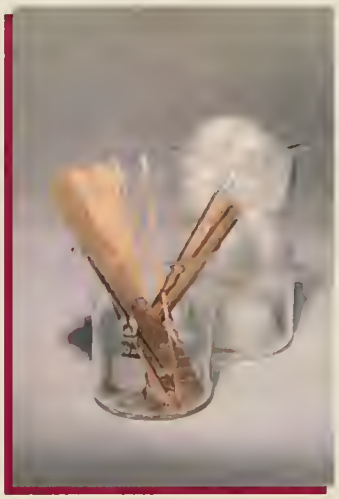
"Indemnity claim" is a workers' compensation or occupational disease claim where compensation benefits in addition to medical benefits are being paid or are likely to be paid in the future. Totals represent indemnity benefits paid to the injured worker and medical benefits paid to hospitals, doctors and other health care providers as reported to the DLI. Benefit totals have been updated since the publication of previous annual reports due to the receipt of amended expenditure reports.

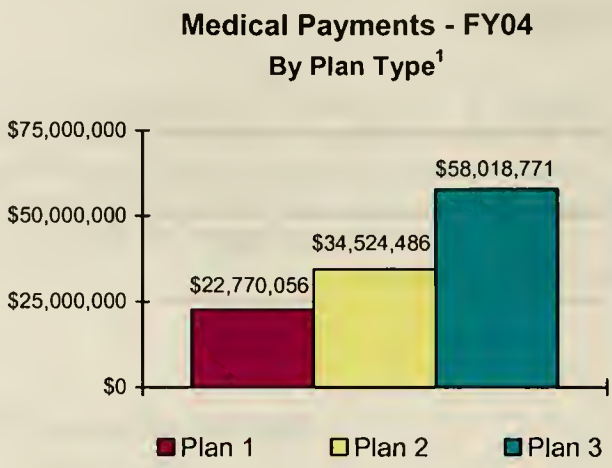


Total Benefits Paid
By Plan Type[1] and Fiscal Year of Payment

Plan Type[1]	FY00	FY01	FY02	FY03	FY04
Plan 1	24,618,959	29,141,324	32,322,477	34,866,131	39,687,598
Plan 2	63,425,703	79,341,672	69,983,989	73,889,121	67,663,530
Plan 3	66,723,654	70,893,570	75,735,063	91,798,520	103,416,233
Total[2]	***$154,768,316***	***$179,376,566***	***$178,041,529***	***$200,553,772***	***$210,767,361***

Notes:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund
[2]Total benefits represent indemnity and medical, from DLI Quarterly Expenditure Reports as of 04-19-2005.

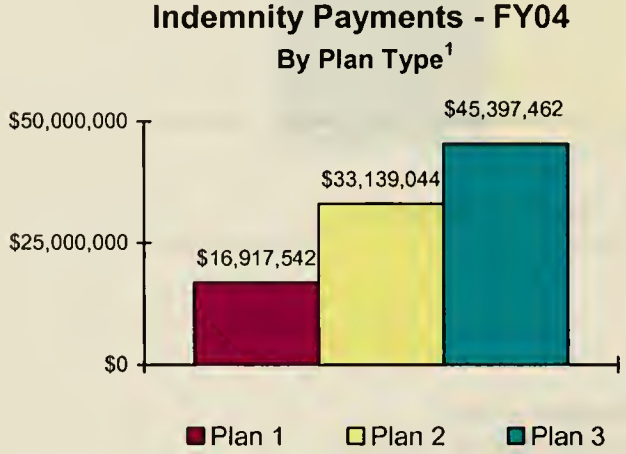




Medical Payments
By Plan Type[1] and Fiscal Year of Payment

Plan Type[1]	FY00	FY01	FY02	FY03	FY04
Plan 1	13,469,679	15,791,261	17,626,880	19,960,057	22,770,056
Plan 2	30,557,976	41,626,961	36,012,896	37,705,229	34,524,486
Plan 3	34,223,740	35,656,851	40,571,820	51,404,831	58,018,771
Total[2]	***$78,251,395***	***$93,075,073***	***$94,211,596***	***$109,070,117***	***$115,313,313***

Notes:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund
[2]Total benefits represent medical payments, from DLI Quarterly Expenditure Reports as of 04-19-2005.



Indemnity Payments
By Plan Type[1] and Fiscal Year of Payment

Plan Type[1]	FY00	FY01	FY02	FY03	FY04
Plan 1	11,149,280	13,350,062	14,239,070	14,906,074	16,917,542
Plan 2	32,867,727	37,714,712	33,971,093	36,183,892	33,139,044
Plan 3	32,499,914	35,236,719	35,163,243	40,393,689	45,397,462
Total	***$76,516,921***	***$86,301,493***	***$83,373,406***	***$91,483,655***	***$95,454,048***

Notes:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund
[2]Total benefits represent indemnity payments, from DLI Quarterly Expenditure Reports as of 4-19-2005.

Benefit Report Data

The DLI currently requires insurance companies to submit Subsequent Reports of Injury (SROIs) at regular intervals throughout the life of an indemnity claim. The SROI report provides updates as to the status of an indemnity claim, including information on the benefits paid (both medical and wage loss). In an effort to better evaluate the long-term costs of claims, DLI contracted Insurance Services Office, Inc. (ISO) to process the SROI data and present it in a form that would be more conducive to analysis. Accordingly, ISO developed the following tables, which detail the cumulative costs of claims over the past six fiscal years[1] (FY), beginning with injuries sustained in FY99.

- Tables 1 and 2 report indemnity benefits and medical benefits.
- Tables 3 through 6 break indemnity benefits down into the four primary categories (excluding lump sum payments): temporary total, temporary partial, permanent partial, and permanent total.
- Tables 7 through 9 divide medical benefits into three groups (excluding lump sum payments): payments to physicians, hospital costs, and other medical provider costs.
- Table 10 provides a combined total of the data contained in tables 7 through 9.
- Tables 11 and 12 report lump sum payments of indemnity benefits and medical benefits.

Each table consists of six rows of data; each row holds information pertaining to injuries sustained during the fiscal year shown in the "Injury Year" column. The columns report cumulative totals of claims, as well as the average and median benefits paid through the column's given year. The "First Year" column provides the number of claims receiving the given benefit type within the same fiscal year as the injury; it also gives the average and median[2] benefits paid on those claims. The "Second Year" through "Sixth Year" columns report cumulative claim totals, average benefits, and median benefits as more benefits are paid and/or more claimants begin receiving benefits. Consequently, the right-most populated column of each row contains the most current (as of FY04 year-end) figures pertaining to the accumulated claimant count, average claim cost, and median claim cost for injuries sustained in the year assigned to that row.

EXAMPLE: *A SROI is submitted (effective date of 4/9/2002) as a report on an injury that occurred in FY99. Because 2002 is the fourth year since the injury (counting the injury year as the first), this claim will be reported in the "Fourth Year" column of the "1999" row.*

Table 1: Wage replacement (indemnity) benefits paid, including lump sum payments
Table 2: Medical benefits paid, including lump sum payments
Table 3: Temporary total disability benefits paid
Table 4: Temporary partial disability benefits paid
Table 5: Permanent partial disability benefits paid
Table 6: Permanent total disability benefits paid
Table 7: Payments to physicians paid
Table 8: Hospital costs paid
Table 9: Other medical provider costs paid – includes payments for prescription medicine
Table 10: Payments to physicians, hospital costs, and other medical provider costs combined
Table 11: Wage replacement lump sum payments
Table 12: Medical lump sum payments

Notes:
[1] Fiscal Year (FY) is defined as July 1 through June 30; FY04 ended on June 30, 2004
[2] See definition of "median" in the "Definitions" section of the Appendices

Table 1

Total Wage Replacement: TTD, TPD, PTD, PPD, including Lump Sums

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2004	# of Claims	2,496					
	Avg Cost/Claim	$2,034					
	Median	$677					
2003	# of Claims	2,742	3,876				
	Avg Cost/Claim	$1,975	$5,487				
	Median	$722	$1,798				
2002	# of Claims	2,748	3,894	4,155			
	Avg Cost/Claim	$1,781	$5,269	$7,798			
	Median	$630	$1,737	$2,384			
2001	# of Claims	2,734	3,902	4,065	4,137		
	Avg Cost/Claim	$1,694	$4,842	$7,206	$8,937		
	Median	$654	$1,615	$2,134	$2,311		
2000	# of Claims	2,567	3,579	3,951	4,010	4,034	
	Avg Cost/Claim	$1,375	$3,566	$6,094	$7,436	$8,439	
	Median	$553	$1,213	$1,819	$1,948	$2,000	
1999	# of Claims	1,200	3,512	3,806	4,035	4,058	4,083
	Avg Cost/Claim	$1,329	$3,768	$5,550	$6,876	$7,513	$8,104
	Median	$414	$1,270	$1,685	$1,852	$1,886	$1,916

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Table 2

Total Medical Costs, including Lump Sums

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2004	# of Claims	1,995					
	Avg Cost/Claim	$3,638					
	Median	$1,262					
2003	# of Claims	2,147	3,530				
	Avg Cost/Claim	$3,907	$7,324				
	Median	$1,703	$3,982				
2002	# of Claims	2,030	3,529	3,825			
	Avg Cost/Claim	$3,679	$7,862	$9,724			
	Median	$1,337	$3,775	$4,457			
2001	# of Claims	1,881	3,395	3,592	3,694		
	Avg Cost/Claim	$3,371	$6,787	$8,528	$9,876		
	Median	$1,350	$3,521	$4,137	$4,390		
2000	# of Claims	1,829	3,147	3,564	3,630	3,655	
	Avg Cost/Claim	$2,482	$4,954	$7,038	$7,975	$8,779	
	Median	$1,077	$2,399	$3,450	$3,679	$3,786	
1999	# of Claims	654	2,990	3,390	3,617	3,640	3,666
	Avg Cost/Claim	$2,385	$5,159	$6,239	$7,470	$8,036	$8,577
	Median	$1,117	$2,565	$3,142	$3,449	$3,511	$3,545

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Table 3

Wage Replacement: Temporary Total Disability

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2004	# of Claims	2,330					
	Avg Cost/Claim	$1,786					
	Median	$604					
2003	# of Claims	2,558	3,437				
	Avg Cost/Claim	$1,789	$3,907				
	Median	$668	$1,351				
2002	# of Claims	2,572	3,444	3,599			
	Avg Cost/Claim	$1,588	$3,869	$5,115			
	Median	$582	$1,381	$1,606			
2001	# of Claims	2,569	3,464	3,575	3,640		
	Avg Cost/Claim	$1,554	$3,632	$4,856	$5,747		
	Median	$622	$1,247	$1,425	$1,563		
2000	# of Claims	2,402	3,221	3,474	3,515	3,542	
	Avg Cost/Claim	$1,200	$2,595	$4,139	$4,819	$5,321	
	Median	$511	$975	$1,338	$1,419	$1,448	
1999	# of Claims	1,099	3,142	3,322	3,483	3,503	3,522
	Avg Cost/Claim	$942	$2,742	$3,636	$4,427	$4,762	$5,034
	Median	$398	$984	$1,228	$1,320	$1,346	$1,373

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Table 4

Wage Replacement: Temporary Partial Disability

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2004	# of Claims	308					
	Avg Cost/Claim	$865					
	Median	$484					
2003	# of Claims	305	597				
	Avg Cost/Claim	$765	$1,519				
	Median	$386	$665				
2002	# of Claims	269	582	645			
	Avg Cost/Claim	$805	$1,487	$1,735			
	Median	$400	$652	$724			
2001	# of Claims	247	516	564	594		
	Avg Cost/Claim	$849	$1,513	$1,788	$1,909		
	Median	$457	$637	$708	$750		
2000	# of Claims	254	469	570	587	602	
	Avg Cost/Claim	$800	$1,250	$1,612	$1,736	$1,846	
	Median	$368	$530	$578	$608	$628	
1999	# of Claims	141	461	549	599	609	615
	Avg Cost/Claim	$743	$1,352	$1,595	$1,712	$1,809	$1,873
	Median	$371	$594	$633	$672	$677	$678

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Table 5

Wage Replacement: Permanent Partial Disability

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2004	# of Claims	152					
	Avg Cost/Claim	$2,274					
	Median	$1,461					
2003	# of Claims	152	954				
	Avg Cost/Claim	$2,145	$4,940				
	Median	$1,016	$3,078				
2002	# of Claims	130	825	1,327			
	Avg Cost/Claim	$2,124	$4,430	$6,004			
	Median	$1,322	$2,724	$3,950			
2001	# of Claims	131	851	1,182	1,343		
	Avg Cost/Claim	$2,169	$4,536	$5,895	$7,217		
	Median	$1,317	$2,640	$3,733	$3,841		
2000	# of Claims	116	579	1,048	1,168	1,233	
	Avg Cost/Claim	$2,501	$3,895	$5,472	$6,405	$7,153	
	Median	$1,488	$2,231	$2,975	$3,699	$3,719	
1999	# of Claims	73	694	1,034	1,265	1,308	1,344
	Avg Cost/Claim	$3,687	$4,058	$5,274	$6,286	$6,820	$7,297
	Median	$1,431	$2,808	$3,519	$3,596	$3,596	$3,611

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Table 6

Wage Replacement: Permanent Total Disability

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2004	# of Claims	1					
	Avg Cost/Claim	$33					
	Median	$33					
2003	# of Claims	0	7				
	Avg Cost/Claim	$0	$23,149				
	Median	$0	$15,000				
2002	# of Claims	0	9	31			
	Avg Cost/Claim	$0	$1,442	$11,126			
	Median	$0	$1,362	$2,270			
2001	# of Claims	2	4	11	31		
	Avg Cost/Claim	$6,155	$3,831	$5,253	$8,640		
	Median	$6,155	$1,506	$2,479	$4,028		
2000	# of Claims	0	1	10	13	22	
	Avg Cost/Claim	$0	$86,000	$19,493	$26,528	$25,658	
	Median	$0	$86,000	$3,385	$25,464	$16,063	
1999	# of Claims	1	2	6	13	17	26
	Avg Cost/Claim	$424	$1,462	$41,805	$28,452	$26,980	$33,537
	Median	$424	$1,462	$1,742	$7,732	$10,000	$16,649

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Table 7

Medical Costs: Payments to Physicians Paid to Date

Injury Year	Category	First Year	(Cumulative Totals) Second Year	Third Year	Fourth Year	Fifth Year	Sixth Year
2004	# of Claims	1,504					
	Avg Cost/Claim	$1,538					
	Median	$637					
2003	# of Claims	1,734	3,336				
	Avg Cost/Claim	$1,689	$2,803				
	Median	$780	$1,452				
2002	# of Claims	1,606	3,324	3,618			
	Avg Cost/Claim	$1,447	$2,696	$3,315			
	Median	$638	$1,394	$1,688			
2001	# of Claims	1,528	3,199	3,403	3,505		
	Avg Cost/Claim	$1,324	$2,521	$3,089	$3,440		
	Median	$600	$1,355	$1,671	$1,759		
2000	# of Claims	1,522	2,903	3,353	3,420	3,444	
	Avg Cost/Claim	$1,051	$1,841	$2,537	$2,813	$3,035	
	Median	$449	$893	$1,331	$1,427	$1,470	
1999	# of Claims	591	2,782	3,172	3,401	3,425	3,448
	Avg Cost/Claim	$1,003	$1,865	$2,310	$2,635	$2,771	$2,897
	Median	$428	$918	$1,186	$1,343	$1,367	$1,388

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Table 8

Medical Costs: Hospital Costs Paid to Date

Injury Year	Category	First Year	(Cumulative Totals) Second Year	Third Year	Fourth Year	Fifth Year	Sixth Year
2004	# of Claims	1,106					
	Avg Cost/Claim	$3,130					
	Median	$1,140					
2003	# of Claims	1,258	2,624				
	Avg Cost/Claim	$2,955	$4,174				
	Median	$1,300	$2,043				
2002	# of Claims	1,181	2,674	2,946			
	Avg Cost/Claim	$2,948	$4,708	$5,369			
	Median	$1,046	$1,879	$2,079			
2001	# of Claims	1,113	2,557	2,748	2,838		
	Avg Cost/Claim	$2,701	$3,913	$4,719	$5,255		
	Median	$1,073	$1,748	$1,988	$2,063		
2000	# of Claims	1,069	2,251	2,682	2,749	2,771	
	Avg Cost/Claim	$1,964	$2,907	$3,880	$4,302	$4,613	
	Median	$853	$1,341	$1,804	$1,886	$1,919	
1999	# of Claims	407	2,240	2,576	2,791	2,814	2,832
	Avg Cost/Claim	$1,380	$3,103	$3,469	$3,977	$4,181	$4,361
	Median	$668	$1,303	$1,504	$1,671	$1,693	$1,697

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Table 9

Medical Costs: Other Medical to Medical Provider Paid to Date

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2004	# of Claims	1,726					
	Avg Cost/Claim	$859					
	Median	$340					
2003	# of Claims	1,847	3,095				
	Avg Cost/Claim	$943	$1,788				
	Median	$436	$773				
2002	# of Claims	1,722	3,078	3,371			
	Avg Cost/Claim	$966	$2,012	$2,759			
	Median	$400	$783	$923			
2001	# of Claims	1,587	2,976	3,170	3,277		
	Avg Cost/Claim	$826	$1,650	$2,229	$2,871		
	Median	$417	$778	$891	$971		
2000	# of Claims	1,456	2,643	3,053	3,119	3,143	
	Avg Cost/Claim	$576	$1,401	$2,014	$2,399	$2,803	
	Median	$279	$473	$696	$741	$767	
1999	# of Claims	470	2,462	2,802	2,995	3,019	3,045
	Avg Cost/Claim	$863	$1,319	$1,727	$2,307	$2,633	$2,975
	Median	$272	$515	$630	$696	$726	$739

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Table 10

Medical Costs: Paid to Physicians, Hospitals and Other Medical Providers

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2004	# of Claims	1,995					
	Avg Cost/Claim	$3,638					
	Median	$1,262					
2003	# of Claims	2,147	3,530				
	Avg Cost/Claim	$3,907	$7,320				
	Median	$1,703	$3,982				
2002	# of Claims	2,030	3,529	3,825			
	Avg Cost/Claim	$3,679	$7,862	$9,703			
	Median	$1,337	$3,775	$4,455			
2001	# of Claims	1,880	3,392	3,589	3,691		
	Avg Cost/Claim	$3,372	$6,775	$8,511	$9,857		
	Median	$1,353	$3,529	$4,140	$4,396		
2000	# of Claims	1,829	3,147	3,562	3,628	3,653	
	Avg Cost/Claim	$2,482	$4,954	$7,037	$7,974	$8,772	
	Median	$1,077	$2,399	$3,442	$3,679	$3,784	
1999	# of Claims	654	2,988	3,387	3,614	3,637	3,663
	Avg Cost/Claim	$2,385	$5,150	$6,231	$7,463	$8,030	$8,571
	Median	$1,117	$2,556	$3,124	$3,428	$3,502	$3,526

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Table 11

Wage Replacement: Lump Sums

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2004	# of Claims	36					
	Avg Cost/Claim	$8,419					
	Median	$3,500					
2003	# of Claims	50	184				
	Avg Cost/Claim	$5,595	$11,173				
	Median	$2,566	$5,572				
2002	# of Claims	44	255	352			
	Avg Cost/Claim	$7,212	$10,422	$12,953			
	Median	$2,979	$5,250	$7,775			
2001	# of Claims	31	186	315	346		
	Avg Cost/Claim	$4,286	$8,890	$12,375	$14,339		
	Median	$2,500	$5,000	$7,500	$9,000		
2000	# of Claims	23	169	256	305	325	
	Avg Cost/Claim	$6,668	$8,747	$11,133	$13,228	$14,471	
	Median	$2,500	$5,080	$7,312	$7,500	$8,500	
1999	# of Claims	26	128	248	280	299	310
	Avg Cost/Claim	$7,133	$9,180	$9,936	$10,637	$11,116	$11,375
	Median	$3,500	$5,818	$6,472	$7,278	$7,500	$7,500

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Table 12

Medical Lump Sums: Paid to Claimant as Settlement of Medical Liability

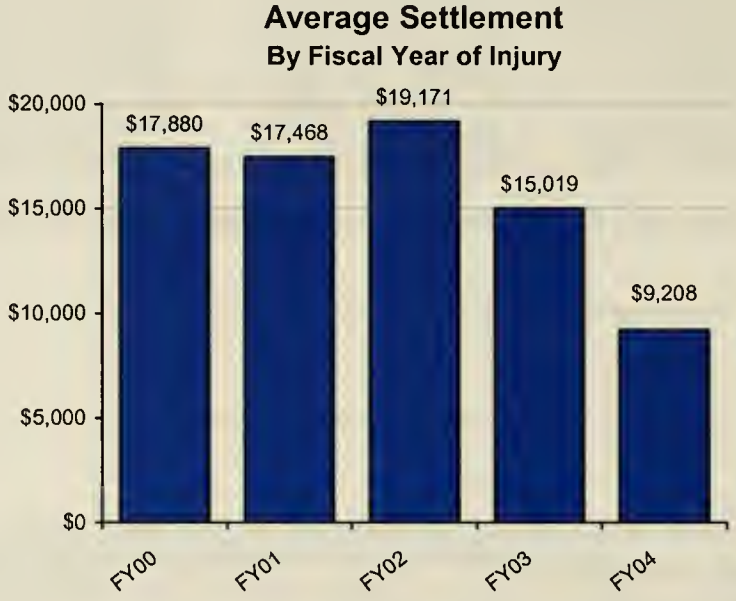
Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2004	# of Claims	0					
	Avg Cost/Claim	$0					
	Median	$0					
2003	# of Claims	0	9				
	Avg Cost/Claim	$0	$1,565				
	Median	$0	$548				
2002	# of Claims	0	0	26			
	Avg Cost/Claim	$0	$0	$3,070			
	Median	$0	$0	$806			
2001	# of Claims	1	6	7	18		
	Avg Cost/Claim	$500	$10,042	$12,179	$5,576		
	Median	$500	$4,375	$6,750	$1,102		
2000	# of Claims	0	0	3	4	8	
	Avg Cost/Claim	$0	$0	$5,693	$5,020	$5,303	
	Median	$0	$0	$4,900	$4,700	$3,750	
1999	# of Claims	0	6	8	8	8	8
	Avg Cost/Claim	$0	$6,250	$5,765	$5,765	$5,765	$5,765
	Median	$0	$5,250	$5,250	$5,250	$5,250	$5,250

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Settlement Dollars

Settlements are lump sum payments of the claimant's workers' compensation benefits. Benefits are usually paid in periodic payments designed to sustain an injured worker over an extended period of time. Settlements can occur when the claimant and the insurer agree that benefits will be converted to a lump sum payment. If the claimant has more than one claim, a settlement may settle more than one of those claims. Settlements are subject to approval by the DLI.

This graph displays average settlement amounts, by fiscal year of injury, for claims settled between July 01, 1999 and June 30, 2004. This information includes both injury and occupational disease settlements.



Settlement Amounts For Claims Settled[1]
By Plan Type[2] and Fiscal Year of Injury

	FY00		FY01		FY02		FY03		FY04	
Plan Type[2]	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Plan 1	2,706,801	151	2,429,251	150	2,115,661	140	1,128,565	116	160,708	21
Plan 2	7,073,188	408	6,548,888	399	5,324,115	312	3,175,303	212	441,978	46
Plan 3	4,345,169	231	5,415,401	275	6,056,584	252	3,310,674	179	318,082	33
Totals[3]	***$14,125,158***	***790***	***$14,393,540***	***824***	***$13,496,360***	***704***	***$7,614,542***	***507***	***$920,768***	***100***

Notes:
[1]This chart does not include settlements ordered by the Workers' Compensation Court.
[2]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund.
[3]Previous fiscal year information has been updated.

Settlement Attorney Fees

ERD collects workers' compensation claimant legal expense data on attorney fees claimed for approved settlements. Legal costs accumulated in defense of a claim, pro-bono work, court awarded fees, fees taken from bi-weekly compensation payments prior to settlement, fees related to uninsured employer claims, annuities or benefit advances are not included.

Settlement of Claimant Attorney Fees[1]
By Fiscal Year of Settlement

	FY00	FY01	FY02	FY03	FY04
Number of Settlement Petitions Processed	1,334	1,339	1,227	1,317	1,414
Claims Settled with Attorney Representation	678	715	682	645	787
Percent Claimants Represented by Attorney	51%	53%	55%	49%	56%
Total Settlement Amount With Attorney Involvement	$14,169,102	$16,734,211	$17,551,999	$17,675,697	$22,960,912
Total Attorney Fees	$2,620,749	$3,028,678	$3,183,270	$3,166,382	$4,053,961
Average Fee/Settlement Percentage	19%	18%	18%	18%	18%

Notes:

[1] Similar to reports issued in previous years, there are a small percentage of records for which no attorney fees were listed due to entry errors and/or reporting limitations.

Rehabilitation

The best possible outcome after an injury is for the injured worker to return to work. Sometimes a disabled worker needs help to become employable. The expense of vocational rehabilitation pays off when the worker becomes as productive and self-sufficient as possible.

Rehabilitation benefits are paid bi-weekly while completing the rehabilitation plan. Benefits are 66⅔% of wages received at the time of the injury, not to exceed the state's average weekly wage.

The worker's rehabilitation plan must be started within 78 weeks of reaching maximum medical improvement (MMI) and must be completed within 26 weeks of the completion date specified in the plan. In addition, the insurer may pay auxiliary benefits up to $4,000 for reasonable travel and relocation expenses.

Rehabilitation benefits are provided to claimants under certain circumstances. Disabled workers are eligible when:

- Permanent impairment established by objective medical findings, that resulted from a work related injury and precludes the injured worker from returning to the job at the time of injury or a job with similar physical requirements; and
- Actual wage loss; or
- Medical impairment of at least 15% established by objective medical findings and no wage loss.

The injured worker must have reasonable vocational goals and re-employment opportunities that will likely reduce the wage loss and have a rehabilitation plan agreed upon with the insurer.

Vocational Rehabilitation Benefits Paid
By Plan Type[1] and Fiscal Year of Injury

Plan Type[1]	FY00	FY01	FY02	FY03	FY04
Plan 1	179,356	329,178	84,552	51,024	120,448
Plan 2	810,180	585,750	634,462	305,068	63,831
Plan 3	1,103,170	1,271,095	1,042,689	781,371	221,427
Total	***$2,092,707***	***$2,186,022***	***$1,761,702***	***$1,137,462***	***$405,706***

Notes:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund

Dispute Resolution

- Occupational Disease Evaluations
- Mediation
- Contested Case Hearings
- Workers' Compensation Court

Occupational Disease Evaluations

The Workers' Compensation Claims Assistance Bureau of the ERD is responsible for the occupational disease (OD) evaluation process. The process is used to determine whether a claimant's condition is a result of the employment and to determine compensability of claims under the OD statutes when an insurer has not accepted liability for the claim.

The process requires the claimant to attend a medical evaluation directed by the department. The medical evaluator submits a report of findings to the department. A copy of the report is then sent to the claimant and the insurer. Upon receipt of the report, if a dispute exists over initial compensability as an OD, it is a dispute that after mediation is subject to the jurisdiction of the Workers' Compensation Court.

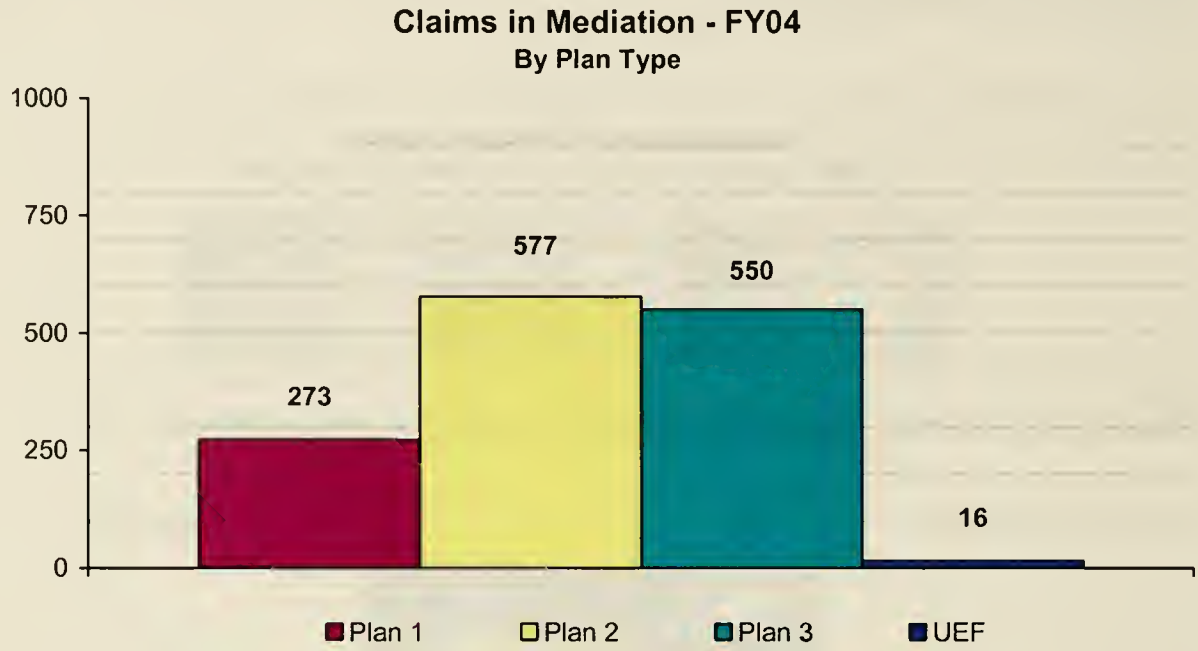
Occupational Disease Cases
By Plan Type[1] and Fiscal Year of Evaluation Request

Plan Types	FY00	FY01	FY02	FY03	FY04
Plan 1	47	40	29	30	25
Plan 2	86	82	63	64	28
Plan 3	58	45	81	96	71
Total	***191***	***167***	***173***	***190***	***124***

Notes:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund

Mediation

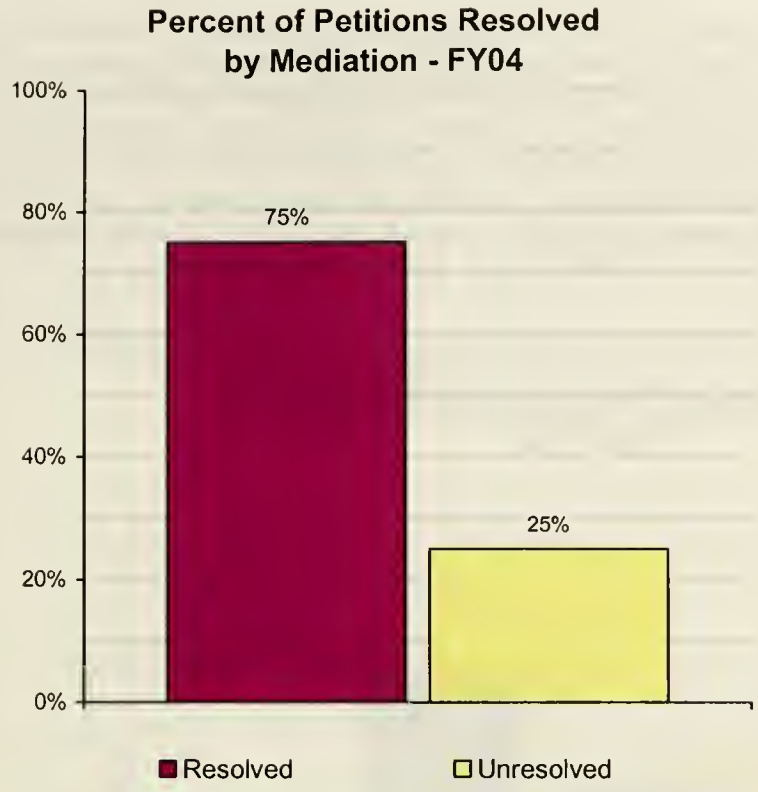
The Workers' Compensation Mediation Unit of the ERD provides a mandatory process for resolving disputes dealing with benefits for both occupational injury and occupational disease claims. The mediation process is confidential, non-binding and informal. The mediator facilitates the exchange of information between the parties and assists with solutions aimed at resolving the dispute. Conferences are held either in Helena, in person or by telephone conference. Often more than one conference is held in order to resolve the disputes on a claim. In FY04, the Mediation Unit received and processed 1,303 petitions, which involved 1,416 claims. A petition is a request for mediation and may include multiple claims.



Claims in Mediation
By Plan Type[1] and Fiscal Year of Receipt

	FY00		FY01		FY02		FY03		FY04	
Plan Types	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**
Plan 1	200	15%	227	17%	249	18%	244	18%	272	19%
Plan 2	603	46%	648	49%	680	49%	623	46%	578	41%
Plan 3	470	36%	428	32%	443	32%	452	33%	550	39%
UEF	27	2%	29	2%	26	2%	36	3%	16	1%
Totals[2]	***1,300***	***100%***	***1,332***	***100%***	***1,398***	***100%***	***1,355***	***100%***	***1,416***	***100%***

Notes:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund and UEF – Uninsured Employers Fund
[2]Total count represents number of claims not number of petitions



- Over the past five years Mediation has had an average resolution rate of 79%.
- From the date of the petition receipt to issuing a written recommendation, the average completion time for mediation was 39 days in FY04.

Mediation Petitions[1]
By Fiscal Year of Receipt

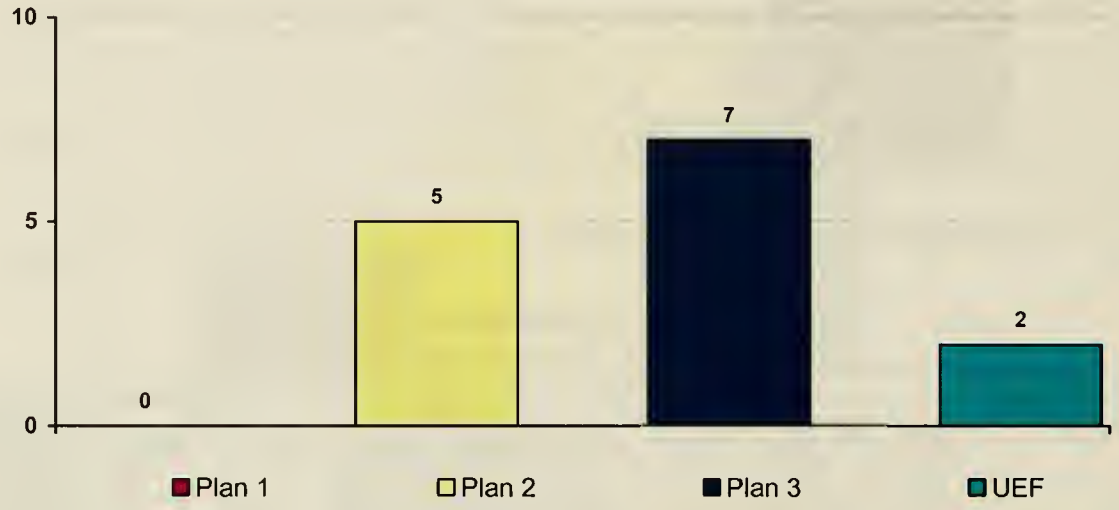
Petitions Received	FY00		FY01		FY02		FY03		FY04	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Pending[2]	3	1%	2	1%	5	1%	9	1%	117	9%
Closed	1,165	99%	1,193	99%	1,255	99%	1,223	99%	1,186	91%
Total Petitions Received	***1,168***	***100%***	***1,195***	***100%***	***1,260***	***100%***	***1,232***	***100%***	***1,303***	***100%***
Resolved	942	81%	964	81%	969	77%	967	79%	894	75%
Unresolved	223	19%	229	19%	286	23%	256	21%	292	25%
Total Petitions Closed	***1,165***	***100%***	***1,193***	***100%***	***1,255***	***100%***	***1,223***	***100%***	***1,186***	***100%***

Notes:
[1]A single petition may include multiple claims and/or multiple insurers.
[2]Eventual outcome of pending petitions will affect percent resolved.

Contested Case Hearings

The DLI Hearings Bureau holds contested case hearings. Disputes heard at contested case hearings include appeals from orders and determinations issued by ERD, assessments of penalties for uninsured employers, medical disputes between providers and insurers when payments to the claimant are not an issue and regulation of attorney fees. The numbers of cases being heard by the DLI Hearings Bureau has been declining since FY98, when the Legislature transferred responsibility for hearing occupational disease claims to the Workers' Compensation Court. In FY04, the Hearings Bureau received 19 new requests for contested case hearings.

Petitions Received by the Hearings Bureau- FY04
By Plan Type[1]



Petitions Received by the Hearings Bureau
By Plan Type[1] and Fiscal Year

	FY00		FY01		FY02		FY03		FY04	
Plan Type	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	5	16%	0	0%	0	0%	1	5%	0	0%
Plan 2	14	45%	12	63%	7	44%	6	32%	5	36%
Plan 3	6	19%	1	5%	2	13%	3	16%	7	50%
UEF	6	19%	6	32%	6	38%	9	47%	2	14%
PEO	0	0%	0	0%	1	6%	0	0%	0	0%
Total	***31***	***100%***	***19***	***100%***	***16***	***100%***	***19***	***100%***	***14***	***100%***

Notes:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, UEF – Uninsured Employers Fund and PEO – Professional Employer Organization.

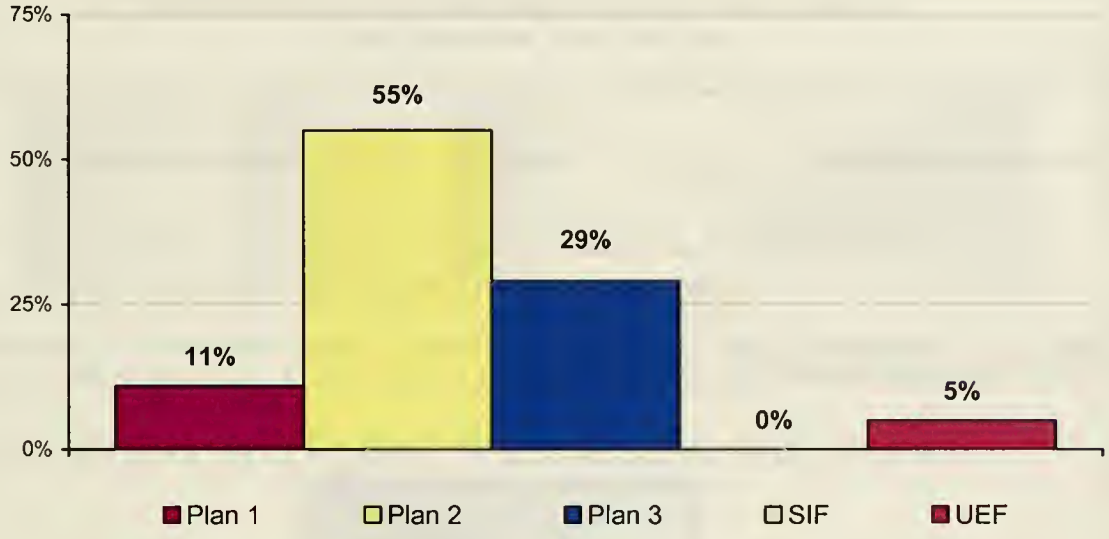
Workers' Compensation Court

The Workers' Compensation Court (WCC) resolves disputes between insurers or employers and workers disabled as a result of occupational injuries or diseases. The Court has original jurisdiction over benefit issues arising under the Workers' Compensation Act and the Occupational Disease Act. For an injury occurring after July 01,1987, disputes must first be mediated. The Court's exclusive jurisdiction also extends to disputes involving independent contractor exemptions under both the Workers' Compensation and Unemployment Insurance Acts, enforcement of DLI subpoenas, civil penalties for violations of workers' compensation provisions and the two-year return to work preference specified in section 39-71-317(2), MCA.

Court statistics were taken from the Workers' Compensation Court Website: http://wcc.dli.mt.gov

Percent of Petitions Received by the WCC - FY04

By Plan Type[1]



Petitions Received by the WCC

By Plan Type[1] and Fiscal Year

	FY00		FY01		FY02		FY03		FY04	
Plan Type	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**
Plan 1	23	9%	14	6%	29	12%	34	14%	28	11%
Plan 2	118	45%	144	60%	140	56%	139	59%	144	55%
Plan 3	86	33%	65	27%	62	25%	53	22%	75	29%
SIF	0	0	1	0%	1	0%	1	0%	0	0%
UEF	34	13%	15	6%	16	6%	9	4%	14	5%
Total by Plan[2]	***261***	***100%***	***239***	***99%[3]***	***248***	***100%***	***236***	***100%***	***261***	***100%***
Total	***255***	***100%***	***228***	***99%[3]***	***243***	***100%***	***229***	***100%***	***261***	***100%***

Notes:

[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, SIF – Subsequent Injury Fund and UEF – Uninsured Employers Fund

[2]Petitions may involve more than one plan type.

[3]Columns may not sum 100% due to rounding.

Decisions by the WCC
By Fiscal Year

Decisions	FY00	FY01	FY02	FY03	FY04
Telephone Conference Resulting in Disposition	0	0	3	0	0
Bench Rulings without Written Decisions	1	3	2	0	1
Decisions	66	90	103	145	158
Orders on Appeal	8	0	4	0	0
Substantive Orders	36	64	26	32	30
Attorney Fee Orders	1	7	0	5	7
Orders on Cost	5	4	14	15	4
Disposed of by Telephonic Conference	0	0	2	0	0
Subtotals	***117***	***167***	***152***	***197***	***200***
Petitions Dismissed by Agreement	175	136	118	72	88
Totals	***292***	***303***	***270***	***269***	***288***

Full and Final Compromise Settlements by the WCC
By Plan Type[1] and Fiscal Year

Plan Type	FY00	FY01	FY02	FY03	FY04
Plan 1 Self-Insured	11	5	5	5	7
Plan 2 Private Insurers	18	23	16	12	13
Plan 3 State Compensation Ins. Fund	47	41	24	24	17
Plan 4 Subsequent Injury Fund	0	0	0	0	0
Plan 5 Uninsured Employers Fund	0	0	0	0	0
Total	***76***	***69***	***45***	***41***	***37***

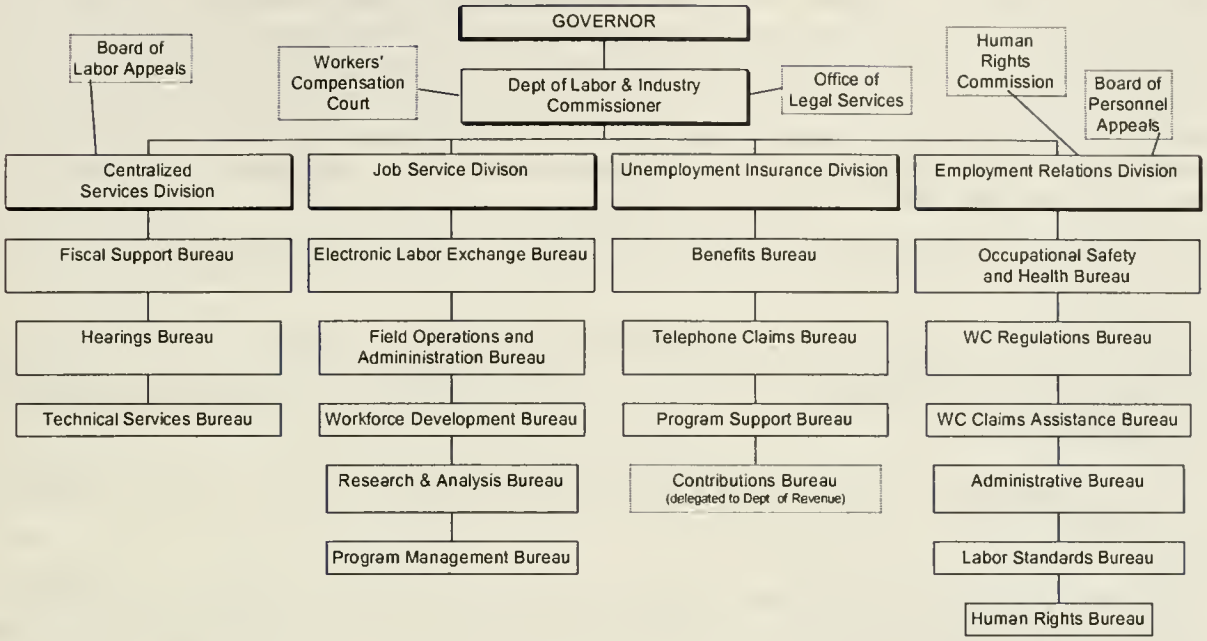
Note:
[1]Plan types: Plan 1 – Self-insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, SIF – Subsequent Injury Fund and UEF – Uninsured Employers Fund

Department Administered Programs

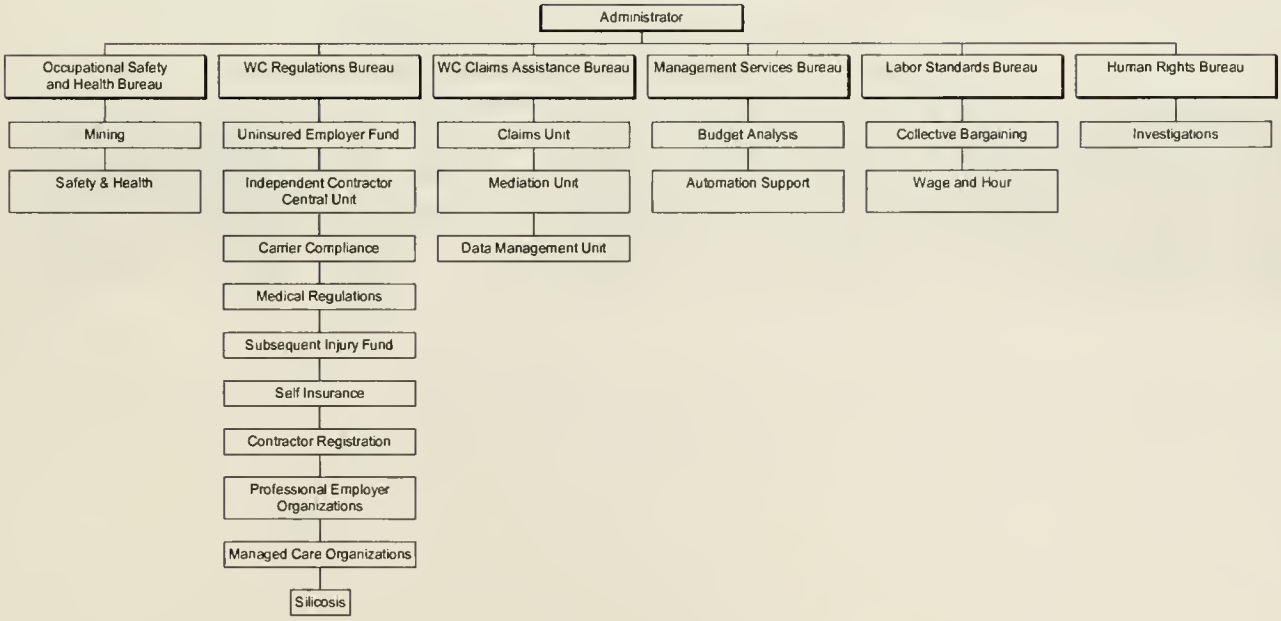
- Organizational Charts
- Workers' Compensation Assessments as Expended
- Subsequent Injury Fund
- Uninsured Employers' Fund
- Occupational Safety & Health
- Independent Contractor Exemptions
- Professional Employer Organizations

Organizational Charts

Montana Department of Labor & Industry



Montana Department of Labor & Industry
Employment Relations Division



Workers' Compensation Assessments as Expended

The administration of the Workers' Compensation and Occupational Disease Acts and the various occupational safety laws is funded by an assessment to Plan 1 (self insured employers), Plan 2 (private insurance carriers), and Plan 3 (Montana State Fund). Section 39-71-201, MCA, requires the administrative assessment to be three percent of benefits paid during the preceding calendar year for injuries covered under the Workers' Compensation Act and the Occupational Disease Act, without regard to the application of any deductible, whether the employer or the insurer pays the losses. Benefits included in the calculation are: (1) compensation benefits paid and (2) medical benefits paid (except payments in excess of $200,000 per occurrence, which are exempt from the assessment).

Regulatory functions performed by the DLI with Workers' Compensation Money

- Legal functions of the Workers' Compensation Court and the Hearings and Legal Bureaus;
- Administration of the Employment Relations Division, including the Workers' Compensation Database;
- Claims management, data analysis, rehabilitation panels, mediation and administration functions of the Claims Assistance Bureau;
- Medical regulation, self-insurance, carrier compliance, Professional Employer Organizations, Managed Care Organizations and administration functions of the Workers' Compensation Regulations Bureau; and
- Occupational safety statistics, mandatory inspections, on-site consultation grant match, mining inspection, mine training grant match and safety culture functions of the Occupational Safety and Health Bureau.

Workers' Compensation Assessments as Expended
By Fiscal Year of Expenditure

FY00	FY01	FY02	FY03	FY04
$4,070,937	$3,950,660	$4,387,058	$4,512,300	$4,584,468

Subsequent Injury Fund

The Subsequent Injury Fund (SIF) was established by legislation passed in 1973. The purpose of the SIF is to assist individuals with impairments to obtain employment by offering a financial incentive to employers for hiring SIF-certified individuals. Many states have similar funds called either subsequent or second injury funds. Montana's program is funded through an annual assessment on Plan 1 employers and an assessment surcharge against policyholders insured under Plan 2 and Plan 3.

The law defines "person with a disability" as a person who has a medically certifiable permanent impairment that is a substantial obstacle to obtaining employment or re-employment. Also taken into account are such factors as the person's age, education, training, experience and employment rejections.

The SIF program reduces the liability of the employer by placing a limit on the amount an employer, or the employer's insurer, will have to pay if the worker becomes injured or re-injured on the job. When that limit is reached, SIF assumes liability for the claim. If a certified worker does become injured on the job, the worker remains entitled to all benefits due under the Workers' Compensation and Occupational Disease Acts.

There were 173 new SIF certifications during FY04 bringing the total to 3,402 SIF-certified individuals in the state of Montana.

The assessment surcharge is based on a percentage of the compensation and medical benefits paid in Montana by each insurance plan in the preceding calendar year. The rate is set by the ERD based on the total amount of paid losses reimbursed by the fund in the preceding calendar year and the expenses of administration, less other income.

SIF Payments and Dollars Assessed
By Plan Type[1] and Calendar/Fiscal Years

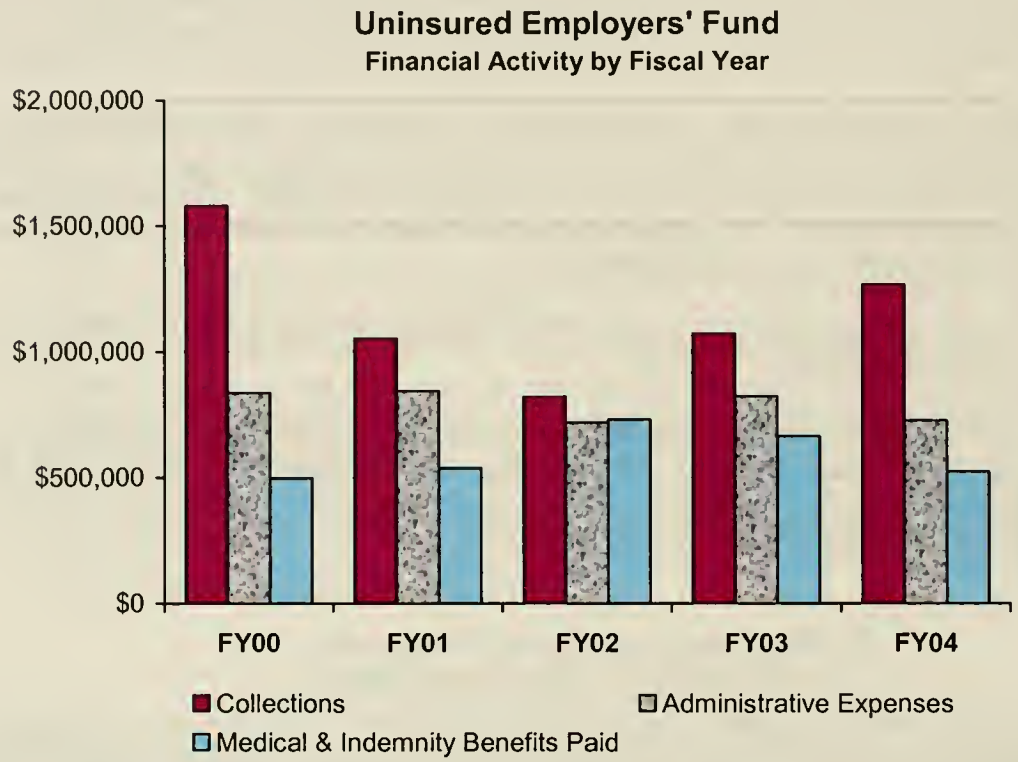
	FY00		FY01		FY02		FY03		FY04	
Plan Type[1]	Payments CY98	Assessment FY00	Payments CY99	Assessment FY01	Payments CY00	Assessment FY02	Payments CY01	Assessment FY03	Payments CY02	Assessment FY04
Plan 1	134,228	19,804	42,200	0	18,819	0	180,361	99,700	62,115	0
Plan 2	101,196	102,699	16,195	0	9,580	0	43,294	19,854	135,513	14,857
Plan 3	0	22,524	549	0	170	0	12,461	381	94,312	48,642
Total	***$235,424***	***$145,027***	***$58,944***	***$0***	***$28,569***	***$0***	***$236,116***	***$119,935***	***$291,940***	***$63,499***

Note:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund

Uninsured Employers' Fund

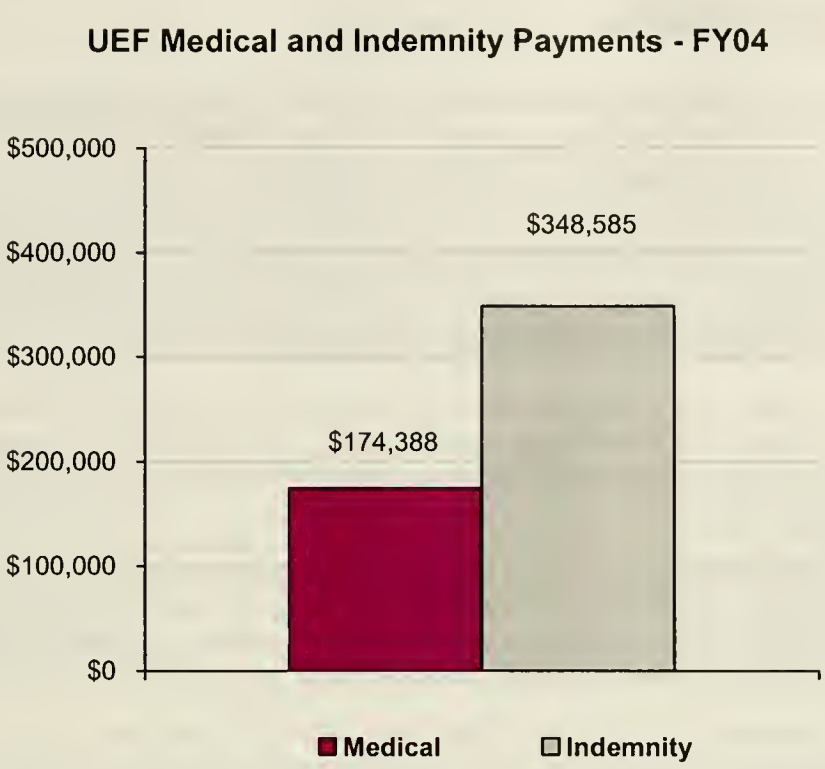
The role of the Uninsured Employers' Fund (UEF) is to provide benefits to employees injured on the job while working for an uninsured employer. Another prime role of the UEF is to ensure employers comply with workers' compensation laws so employees are properly covered.

The UEF Unit levies and collects penalties for the time that the employer is uninsured. UEF requires the uninsured employer to pay a penalty to the fund. Penalties can be double the insurance premium that would have been paid by the employer, or $200, whichever is greater.



Uninsured Employers' Fund
Financial Activity by Fiscal Year

	FY00	FY01	FY02	FY03	FY04
Collections	$1,580,000	$1,051,941	$816,467	$1,071,012	$1,412,419
Administrative Expenses	$836,664	$842,702	$716,409	$820,898	$808,130
Medical & Indemnity Benefits Paid	$497,201	$535,027	$582,716	$662,301	$522,973



UEF Medical and Indemnity Payments
By Fiscal Year

	FY00	FY01	FY02	FY03	FY04
Medical	168,534	263,017	258,505	284,271	174,388
Indemnity	328,667	272,010	324,211	378,030	348,585
Total	***$497,201***	***$535,027***	***$582,716***	***$662,301***	***$522,973***

The UEF recorded claims from 79 workers who were injured in FY04 and whose employers were uninsured.

Occupational Safety & Health

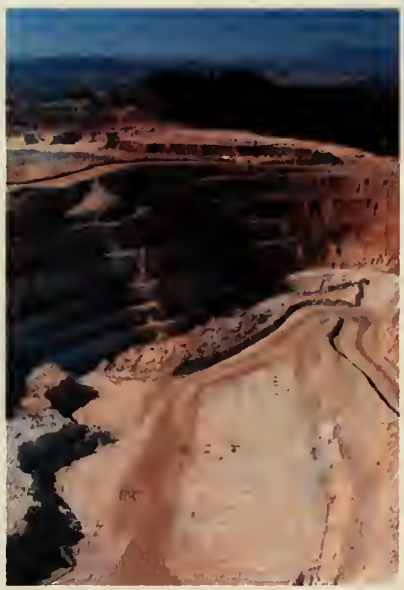
The goal of the Occupational Safety and Health Bureau is to prevent employee illnesses and occupational injuries by enforcing the intent of the various Montana safety statutes and to support federally funded Occupational Safety and Health Administration (OSHA) voluntary programs in the private sector. This involves mandatory workplace safety inspections in coal mines, sand and gravel operations, and in public sector workplaces such as city, county, state governments and schools. Non-mining private sector employers are covered by federal OSHA requirements with regard to inspection activities. The ultimate goal of all activities of the Bureau is to reduce worker injuries and illnesses and lower workers' compensation premiums.

The Bureau inspects public workplaces and issues orders for correction of hazards to provide a safe and healthy work environment. Federal OSHA requirements preempt inspecting private places of business, but on-site consultations are available to private employers upon request, thanks to a grant from OSHA.

Mining inspections are conducted on surface and underground coal mines in addition to sand and gravel operations throughout the state. These mines are required to comply with safety and health standards in the mine safety statutes. The Bureau has no enforcement jurisdiction in metal/nonmetal mines, which fall under the auspices of the Federal Mine Safety and Health Administration (MSHA).

MSHA has provided the Bureau with a training grant to conduct safety training for employers and employees of small mines. Mine operators are assisted in developing acceptable training plans so that their employees recognize hazardous conditions in mining operations.

The Safety Culture Act, §39-71-1501, MCA, requires employers in Montana to implement an education-based safety program in each place of employment. Employers with more than five employees are also required to have active safety committees.



Occupational Safety & Health Activities - FY04

Occupational Safety & Health	Employer Sector									
	Public					*Private*				
	FY00	FY01	FY02	FY03	FY04	FY00	FY01	FY02	FY03	FY04
Mandatory Inspections Performed	250	341	223	239	492	--	--	--	--	--
On-site Inspection Performed	--	--	--	--		207	142	214	275	270
Requests for Technical Assistance	292	479	363	540	651	356	438	447	758	732
Formal Training Sessions Conducted	24	44	120*	48	--	61	45	153*	72	--
Workers Trained	572	1,048	811	798	1,143	608	598	1,097	1,702	1,002

Mining Section	Coal					Sand & Gravel Operations				
	FY00	FY01	FY02	FY03	FY04	FY00	FY01	FY02	FY03	FY04
Inspections Performed	32	38	31	38	37	160	172	174	84	78
Mine Training Sessions Conducted	11	19	15	13	9	61	79	111	97	122
Workers Trained	156	302	497	200	210	864	1,436	1,512	1,679	2,468
Coal Mine Foreman Training Sessions Conducted	1	--	3	6	2	--	--	--	--	--
Coal Mine Foremen Trained	11	9	19	40	28	--	68	--	--	--

The DLI, Occupational Safety and Health Bureau, has established a schedule of training offered by its *Occupational Safety and Health Training Institute*. Traditionally the Bureau had offered training courses throughout Montana on a reactive basis. This caused scheduling problems, not only for the instructors, but also for those interested in being trained in the various OSHA standards. By setting places, dates and times of training opportunities, the employer and employee can plan schedules well in advance in order to attend. No tuition fee is charged for these courses.

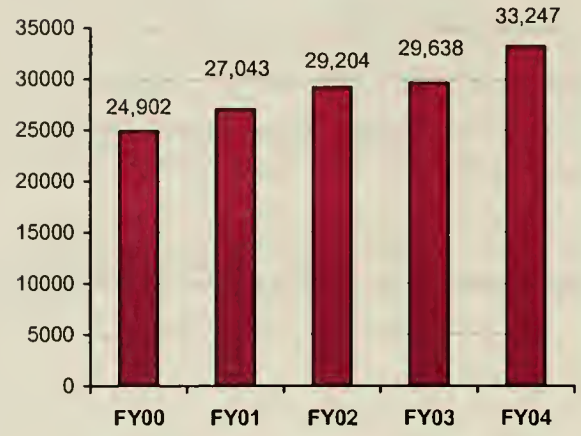
The *Institute* provides basic and advanced training courses in safety and health. Course subject matter includes hazard recognition, state and federal policies and standards and hazard abatement techniques. Courses are designed to build a more effective workforce and to aid in the professional development for Montana employers and employees.

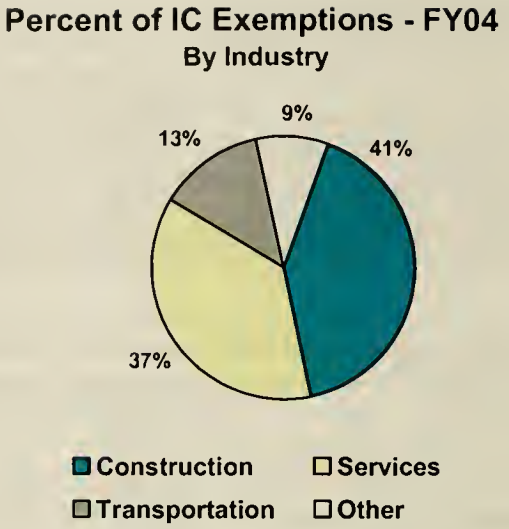
The *Institute* maintains a record of courses successfully completed by each student. These records are useful to both the student and the employer in demonstrating the commitment to a safe and healthy workplace environment. Certificates are issued to those successfully completing the various courses.

Training Institute	CY04[1]
Training Sessions	45
Workers Trained	805
Local Focus Groups	**CY04**
Training Sessions	69
Workers Trained	603

[1] Training Institute and Local Focus Groups are calendar year

Independent Contractor Exemptions





Workers' compensation laws require individuals who hold themselves out as independent contractors to have workers' compensation insurance on themselves or obtain an Independent Contractor Exemption certificate. A sole proprietor, working member of a partnership or a working member of a member-managed limited liability company may apply for the exemption. Corporate officers are considered employees of the corporation and do not qualify for the exemption, as well as managers of a manager-managed limited liability company.

The question of whether an individual is an independent contractor or an employee is a complex one that is driven by the facts in each individual case. An independent contractor is defined in Montana law as "one who renders service in the course of an occupation and (a) has been and will continue to be free from control or direction over the performance of the services, both under contract and fact; and (b) is engaged in an independently established trade, occupation, profession or business". This is commonly referred to as the AB test.

Independent contractor exemptions are issued to individuals for a two-year period. Beginning July 2004, the department required all exemption applicants to provide documentation they are in an independent business. This process was implemented due to the recommendations of the SB 270 committee created in the 2003 legislature. The final proposal of this committee can be read at http://erd.dli.mt.gov/sb270/sb270.asp.

The Montana Supreme Court has informed us that those who hire independent contractors have a responsibility to assure that those hiring are treating the individual as an independent contractor. This means that those hiring must not exert control over the performance of the person's work other than to achieve a bargained for end result. In addition, those hiring should assure the independent contractor is established in an independent occupation, trade, or profession. Simply reporting the individual as an independent contractor and obtaining a copy of their exemption is not enough to protect those hiring from liability under the Workers' Compensation Act.

Professional Employer Organizations

Professional Employer Organizations (PEOs) are required to be licensed by the DLI prior to operating in Montana. A PEO is a business in good standing that contract with other businesses, providing the businesses with leased employees or most frequently lease all or part of their employees. A PEO manages the paperwork responsibilities associated with having employees. PEO's are to pay employee wages, workers' compensation premiums, payroll-related taxes, and employee benefits from their own account without regard to payments by the client. Thus, PEO's become the employer of record. The client companies in return pay the PEO all employee costs plus an administrative fee. The client company is sometimes termed a co-employer. A client is an employer who obtains all or a part of its workforce through an employee leasing arrangement or a professional employer arrangement, both by contract with a Professional Employer Organization.

In FY04, ERD renewed and maintained 26 PEO licenses. An increasing number of client companies maintained contracts with a PEO in FY04, and through the 333 client companies of record, 2,499 employees were employed.

Professional Employer Organizations

By Number of Licenses and Fiscal Year

[1]Data Source: POINTS – (Process Oriented Integrated Tax System, Department of Revenue - Unemployment Insurance Division)

Appendices

- Definitions
- Methodology
- Data Sources
- Future Annual Reports
- Internet Site
- Special Studies Available

Definitions

Calendar Year: The year beginning January 1st and ending December 31st.

Cause of Injury Code: The code that corresponds to the cause of injury or occupational disease. The International Association of Industrial Accident Boards and Commissions (IAIABC) codes for cause are divided into nine categories. A tenth category, "Miscellaneous Causes" was created to account for the records that did not have a cause code entered or All Other Claims, NOC (Not Otherwise Classified).

Burn or Scald – Heat or Cold Exposure: Includes chemical, hot or cold objects, temperature extremes, fire or flame, steam or hot fluids, dust, gases, fumes or vapors, welding, radiation, abnormal air pressure and electrical current.
Caught In, Under or Between: Includes caught in or between machinery, an object being handled and miscellaneous objects such as earth slides or collapsing materials either man made or natural.
Cut, Puncture Scrape or Injured By: Includes punctures, cuts, or scrapes as a result of broken glass, hand tools, utensils, power tools or appliances.
Fall, Slip or Trip: Includes falling from a different level or on the same level, ladder or scaffolding falls, slipping on liquid or grease spills, fall into opening such as shafts, excavations or floor openings, stairs or slips on ice and snow.
Miscellaneous Causes: Includes absorption, injection or inhalation, foreign matter in eye, robbery or criminal assault, not otherwise classified (NOC); includes all records where cause was not reported on the First Report of Injury or where the code could not be converted to IAIABC codes.
Motor Vehicle: Includes crash of water vehicle, rail vehicle, collision with another vehicle or fixed object, rollovers, rough riding and airplane crashes.
Rubbed or Abraded By: Includes repetitive motion such as callous, blister, etc.
Strain or Injury By: Includes continual noise, twisting, jumping, holding or carrying objects, lifting, pushing, pulling, reaching, and using tool or machinery, wielding or throwing and repetitive motion.
Striking Against or Stepping On: Includes moving machine parts, objects being lifted, sanding, scraping or cleaning operations, stationary objects and stepping on sharp objects.
Struck or Injured By – Includes Kicked, Stabbed, Bit, Etc: Includes falling or flying objects, hand tools or machines in use, co-workers, or patients, motor vehicles, moving machine parts and objects handled by others.

Compensation Benefits: Any payment made directly to the worker (or the worker's beneficiaries) other than a medical benefit. The term includes payments made pursuant to a reservation of rights or in settlement of a dispute over initial compensability of the claim. The term does not include expense reimbursements for items such as meals, travel or lodging.

Employment Relations Division (ERD): The State of Montana's regulatory agency for workers' compensation. This division is part of the DLI.

Fiscal Year: The State of Montana's fiscal year begins July 1st and ends June 30th of the following year.

First Report of Injury and Occupational Disease (FROI): The initial report designed to notify parties of the occurrence of an injury or occupational disease. The FROI contains basic claim information about the worker, accident and employer.

Indemnity Payments: Payments made by the insurer to the injured worker to compensate for the loss of wages resulting from an injury or occupational disease.

International Association of Industrial Accident Boards and Commissions (IAIABC): An organization of workers' compensation specialists including government officials and regulators, business and labor leaders, medical providers, law firms, insurance carriers, and rehabilitation and safety experts. Working groups work jointly to standardize reporting of workers' compensation data. Standards have been developed for communicating data electronically through Electronic Data Interchange (EDI).

Median: The middle value of a distribution; half the values are above the median and half are below the median. When a distribution consists of an even number of values, the median is calculated by taking the average of the two middle values.

Montana Code Annotated (MCA): The definitive guide to Montana laws, consisting of the Constitution, codes and statutes. The MCA is normally published each odd numbered year incorporating changes made by the Legislative Session of that year.

Nature of Injury Code: The code that corresponds to the nature of the injury or occupational disease. The IAIABC codes for nature are divided into eight categories. A ninth category "All Other Claims, NOC", was created to account for the records that did not have a nature code entered.

> **All Other Claims, NOC:** Includes asphyxiation, loss of circulation, infection, concussion, heart problems, vision loss, hearing loss, poisoning, fainting, no physical or psychological injuries; includes all records where nature code was reported as "unclassified", the code was not reported on the First Report of Injury, or the code could not be converted to IAIABC codes.
> **Amputation:** Includes loss of a limb that involves bone, loss of part of an organ, enucleation or severance of a body part.
> **Bruise or Swelling:** Includes contusions, broken blood vessels and inflammation.
> **Burn or Exposure:** Includes electrical shocks, chemical burns, temperature extremes, freezing, sunburns, heat stroke and lightning.
> **Cut or Abrasion:** Includes slivers, lodged small objects, open wounds, scrapes and needle sticks.
> **Fracture:** Includes any breaking of a bone.
> **Multiple Injuries**
> **Occupational Disease:** Includes repetitive motion, loss of hearing or sight, respiratory conditions, poisoning, mental disorders, radiation, heart disease, cancer, AIDS, carpal tunnel and any disease resulting from work related experiences.
> **Sprain or Rupture:** Includes strains, dislocations, hernias, organ ruptures and trauma to joints or muscles.

Other Benefits Code: A code that identifies the type of other benefits paid to date or recovered for an injury or occupational disease. The following are IAIABC code definitions:

> **Consultant/Expert Witness Fees Paid to Date by Insurer:** Sum of fees paid to expert witnesses (in a legal proceeding for expert testimony or opinion) for this claim.

Employer's Deductibles Recovery: Sum of monies recovered through Insured reimbursement of deductible amounts for this claim.
Funeral Expenses Paid to Date: Sum of the funeral expenses for this claim.
Hospital Costs Paid to Date: Sum of costs of both inpatient and outpatient services which the injured employee received because of the work related injury.
Insurers Legal Expense Paid to Date: Sum of the employer's legal expenses paid for this claim.
Other Medical Paid to Date: Sum of medical costs not included in payments to physicians or hospital costs, i.e. laboratory tests, prescriptions.
Other Vocational Rehabilitation Education Paid to Date: Sum of vocational rehabilitation services not otherwise reported for this claim.
Overpayment Recovery: Sum of monies recovered due to overpayment of indemnity, medical or expenses for a claim.
Subrogation Recovery: Sum of monies recovered through subrogation for this claim.
Total Payments to Physicians: Sum of services paid to physicians for this claim.
Unspecified Recovery: Sum of monies recovered through salvage, apportionment/contribution, and all others not otherwise defined for a claim.
Vocational Rehabilitation Education Paid to Date: Sum of vocational rehabilitation education payments (including tuition, books, tools, transportation and additional living expenses) for this claim.
Vocational Rehabilitation Evaluation Expense Paid to Date: Sum of vocational rehabilitation evaluation services (testing and evaluating the claimant's ability, aptitude, or attitude in determining suitability for vocational rehabilitation or placement) for this claim.

Part of Body Code: The code which correspond to the part of body to which the employee sustained injury or occupational disease. The IAIABC code definitions for part of body are divided into six categories. The additional categories of "Wrist", "Back" and "Knee" are reported to provide greater detail. A tenth category, "All Other Claims, NOC", was created to account for the records that did not have a part of body code entered.

All Other Claims, NOC: Includes all records where the part of body code was reported as "unclassified", the code was not reported on the First Report of Injury, or the code could not be converted to IAIABC codes.
Back: Includes the upper and lower back, disc, or lumbar and sacral vertebrae.
Head: Includes multiple head injuries, skull, brain, ears, eyes, nose, teeth, mouth, soft tissue or facial bones.
Knee
Lower Extremities: Includes multiple lower extremities, hip, upper leg, knee, lower leg, ankle, foot and toe.
Multiple Parts: Includes artificial appliances, multiple body parts or body systems.
Neck: Includes multiple neck injuries, vertebrae, disc, spinal cord, larynx, soft tissue or trachea.
Trunk: Includes multiple trunk injuries, upper and lower back, disc, chest, sacrum and coccyx, pelvis, spinal cord, internal organs, heart, lungs, abdomen and buttocks.
Upper Extremities: Includes multiple upper extremities, upper arm, elbow, lower arm, wrist, hand, fingers, thumb and shoulders.
Wrist: Includes hand and wrist or just wrist injuries.

Occupational Disease (OD): Harm or damage caused by work-related events that occur on more than a single day or work shift. It includes acute chronic illnesses or diseases caused by inhalation, absorption, ingestion or overuse syndrome.

Occupational Injury: A cut, fracture, sprain, amputation, or other physical harm, which results from a work accident on a single day or during a single work shift.

Permanent Partial Disability (PPD): Permanent impairment resulting from an injury, after achieving maximum medical improvement, that impairs the worker's ability to work and causes an actual wage loss. PPD benefits are calculated using 66⅔% of the wages received at the time of injury, not to exceed half the state's average weekly wage at the time of injury. Maximum length for PPD benefits is determined by the date of injury.

Permanent Total Disability (PTD): A physical condition resulting from an injury or occupational disease, after achieving maximum medical improvement, in which the worker has no reasonable prospect of physically performing regular employment. PTD benefits are calculated using 66⅔% of the wages received at the time of injury, not to exceed the state's average weekly wage at the time of injury. The injured worker may receive cost of living increases.

Plan Type: The type of workers' compensation insurance coverage chosen by an employer. There are three different types of insurance plans:

Plan 1: Self-insurance provided by employers who have sufficient financial strength to cover potential workers' compensation claims. If an injury occurs, a self-insured employer will pay the expenses and benefits.
Plan 2: Insurance coverage provided by a private insurance company.
Plan 3: Insurance coverage provided by the Montana State Compensation Insurance Fund (Montana State Fund).
Plan 5: Uninsured Employers Fund (UEF)
Plan 6: Subsequent Injury Fund (SIF)

Professional Employer Organizations (PEO): Professional Employer Organizations provide human resource services for small to medium size businesses. Examples of services provided by PEOs are staffing, securing unemployment and workers' compensation insurance, and handling payroll taxes and medical benefits. PEOs must be licensed by the DLI prior to contracting with any client companies.

Standard Industrial Classification (SIC) Codes: Codes used to categorize employers by industry and are published by the Federal Office of Management and Budget in the 1987 Standard Industrial Classification Manual. SIC codes are grouped into ten different industrial divisions, as listed below with examples of each division.

Agriculture, Forestry & Fishing (AFF): Includes establishments primarily engaged in agricultural production, forestry, commercial fishing, hunting, trapping and related services.
Construction: Includes establishments performing new work, additions, alterations, reconstruction, installations, and repairs. Three broad types of construction activity are covered: building construction by general contractors, heavy construction other than building by general contractors, and construction activity by other special trade contractors.

Finance, Insurance and Real Estate (FIRE): Finance includes depository institutions, non-depository credit institutions, holding companies, other investment companies, brokers and dealers in securities and commodity contracts, and security and commodity exchanges. Insurance covers carriers of all types of insurance, and insurance agents and brokers. Real estate includes owners, lessors, lessees, buyers, sellers, agents, and developers of real estate. Establishments primarily engaged in the construction of buildings for sale are classified in construction.

Manufacturing: Includes establishments engaged in the mechanical and chemical transformation of materials or substances into new products. These establishments are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Establishments engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of materials, such as lubricating oils, plastic resins or liquors.

Mining: Includes all establishments engaged in the extraction of minerals occurring naturally, and also includes quarrying, well operations, milling, and other preparation customarily done at the mine site, or as a part of mining activity. Exploration and development of mineral properties are included.

Public Administration: Includes the executive, legislative, judicial, administrative and regulatory activities of federal, state and local governments.

Retail Trade: Includes establishments engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of the goods.

Services: Includes establishments primarily engaged in providing a wide variety of services for individuals, business or government establishments, and other organizations such as, hotels and other lodging places; establishments providing personal, business, repair, and amusement services; health, legal, engineering, and other professional services; educational institutions; and membership organizations.

Transportation, Communication, and Public Utilities (TCPU): Includes establishments providing to the general public, or to other business enterprises, passenger and freight transportation, communications services, or electricity, gas, steam, water, or sanitary services and all establishments of the United States Postal Service.

Wholesale Trade: Includes establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, farm, construction contractors, or professional business users, or to other wholesale; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies.

Subsequent Report: A report that gives indemnity and medical payment information on an injured worker's claim. The report includes the date benefit payments begin and amounts paid by benefit type.

Temporary Partial Disability (TPD): A physical condition resulting from an injury, prior to achieving maximum medical improvement that causes a partial loss of wages. TPD benefits are the difference between the injured worker's actual weekly wage and the actual weekly wage earned during the injured worker's temporary partial disability. TPD benefits are limited to a total of 26 weeks, but the insurer may extend the period. They are subject to a maximum of 40 hours per week and capped at the injured worker's Temporary Total Disability rate.

Temporary Total Disability (TTD): A physical condition resulting from an injury or occupational disease, prior to achieving maximum medical improvement that causes a total loss of wages. TTD benefits are calculated using 66⅔% of the wages received at the time of injury, not to exceed the state's average weekly wage at the time of injury.

Methodology

Industry Divisions
Information is grouped by industry division whenever possible to allow for comparison using SIC codes. It is not mandatory to report SIC codes and if they are not provided, the injury will be reported under "NOC-Not Otherwise Classified" on the tables.

Injury and Occupational Disease Data
The First Report of Injury and Occupational Disease (FROI) is used to gather injury and occupational disease data. FROI's consist of four sections that provide information on the worker, accident, employer and insurer. It is completed and submitted to ERD by employees, employers or insurers. The injury or occupational disease may be reported under "NOC-Not Otherwise Classified", due to lack of data or the inability to categorize the data.

The FROI in this study include all injuries and occupational diseases reported to ERD; however, all injuries and occupational diseases that occurred in Montana may not have been reported.

Subsequent Report Data
The Subsequent Report of Injury form is completed for each individual indemnity claim and is submitted to ERD by adjusters or insurers on every six-month anniversary of the date of injury, while the claim is open. The form includes claimant identification information; status of the claim, type of benefits paid and benefit payment amounts.

The study includes data reported to ERD on injury and occupational disease indemnity claims. Subsequent Reports may not have been submitted to ERD for all indemnity claims.

Year-to-Year Comparisons
Whenever possible, the data is presented with a comparison between the last five fiscal years.

Data Sources

Department of Labor and Industry, Mediation Unit
The Mediation Unit of the DLI, ERD provided mediation section data.

Department of Labor and Industry, Occupational Safety and Health Bureau
The Safety and Health Bureau of ERD provided safety section data.

Department of Labor and Industry, Workers' Compensation Regulation Bureau
The Workers' Compensation Regulation Bureau provided data for the following sections of the report: Plan 1 Gross Annual Payroll, Plan 2 and 3 premium dollars, PEOs, Indemnity and Medical Benefits, SIF, Managed Care Organizations (MCOs), UEF and IC Exemptions.

Hearings Bureau
The DLI Hearings Bureau provided Contested Case Hearings data.

Regulatory Costs and Industrial Accident Rehabilitation Trust Fund Expenses
These costs were obtained from the state's Accounting, Budgeting and Human Resource System (SABHRS).

Workers' Compensation Court
Workers' Compensation Court data were provided by the Court, which is administratively attached to the DLI.

Workers' Compensation Database (WCAP)
The database system was built at the request of the legislature to provide management information. Employers, insurers, claimants, attorneys, medical providers and other parties of the workers' compensation community in Montana provide data for the system. ERD maintains the database.

Contracted Services

Insurance Services Office, Inc.

Insurance Services Office, Inc. (ISO) is the leading supplier of statistical, actuarial, and underwriting information for and about the property/casualty insurance industry. ISO is a recent entrant into the workers' compensation field and provides data analysis to ERD on a contract basis.

Future Annual Reports

If you have suggestions or comments about this annual report, please share them with us. We are most interested in any comments or suggestions that will make this report more useful to Montanans in general and the workers' compensation system in particular. You may direct your comments to:

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Internet Site

This report and previous reports are available on the Internet at the following web site:
http://erd.dli.mt.gov/wcclaims/wcchome.asp

Special Studies Available

- The Effect of Apportionment and Capping on Occupational Disease Claims – *A study requested by the Montana Department of Labor & Industry, Employment Division and conducted by Insurance Service Offices, Inc.*[1]

  This report is available on the Internet at the following web site:
  http://erd.dli.mt.gov/wcclaims/wcchome.asp

- Attorney Fee Supplement to Settlement Attorney Fees[2]

  To request a copy of an Annual Report, special study or Attorney Fee Supplement, please contact:

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